HOUSE ENVIRONMENTAL AFFAIRS COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2005 Legislative Session

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE OF TEMPORARY RULE: The temporary rule was effective February 5, 2004.

EFFECTIVE DATE OF PENDING RULE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The rule will become final immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, January 7, 2004, Volume 04-1, pages 215 through 221. The agency received no public comments on the proposed rule, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to meet deadlines in federal law.

SECTION 39-107D, IDAHO CODE STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us, or Pat Nair at (208)373-0447, pnair@deq.state.id.us.

DATED this 5th day of February, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that

this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 21, 2004. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: Effective June 27, 2003, the Environmental Protection Agency amended 40 CFR, Part 70, Section 70.6 to require Title V sources to identify specific information when submitting compliance certifications. Federal regulation requires the Department of Environmental Quality (DEQ) to adopt and incorporate this revision into the Rules for the Control of Air Pollution in Idaho by June 28, 2004.

In this rulemaking DEQ has proposed language for the incorporation of the amended provisions of 40 CFR, Part 70, Section 70.6(c)(5)(iii)(B) and (C) into the Rules for the Control of Air Pollution in Idaho. The proposed revision changes the requirement for compliance certifications from Title V sources to identify whether compliance with each air quality permit term and condition that is the basis of the certification was continuous or intermittent during the covered reporting period. All sources of air pollution that fall within the scope, or may fall within the scope, of Title V of the federal Clean Air Act are affected by this rule revision.

The proposed rule text is in legislative format and can be found at Subsection 322.11. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a temporary and pending rule. The temporary rule is expected to be effective before June 28, 2004. The pending rule will become final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Section 67-5220, Idaho Code, and IDAPA 04.11.01.812 -815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, November 5, 2003, Volume 03-11, page 87.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit

DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Phyllis Heitman at (208) 373-0502 or pheitman@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before January 28, 2004.

DATED this 21st day of November, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

322. STANDARD CONTENTS OF TIER I OPERATING PERMITS.
All Tier I operating permits shall contain and the Department shall have the authority to impose, implement and enforce, the following elements for all permitted operating scenarios and emissions trading scenarios. Fugitive emissions shall be included in the Tier I operating permit in the same manner as stack emissions. (3-23-98)

01. Emission Limitations And Standards. All Tier I operating permits shall contain emission limitations and standards, including, but not limited to, those operational requirements and limitations that assure compliance with the applicable requirements identified in the application, or determined by the Department to be applicable to the source. (3-19-99)

02. Authority For And Form Of Terms And Conditions. All Tier I operating permits shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. (5-1-94)

03. Terms Or Conditions For Applicable Requirements. All Tier I operating permits shall contain at least one (1) permit term or condition for every applicable requirement specifically identified in the application or determined by the Department to be applicable to the source. (3-23-98)

04. Alternative Operating Scenarios. All Tier I operating permits shall contain terms and conditions to ensure compliance with all applicable requirements for each alternative operating scenario that was requested by the applicant and approved by the Department,

including, but not limited to, a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) operating scenario to another, record the change in an operating scenario log located and retained at the permitted facility. (5-1-94)

05. Trading Scenarios. (5-1-94)

a. All Tier I operating permits shall contain terms and conditions for each trading scenario that was requested by the applicant and approved by the Department including, but not limited to, terms and conditions which ensure that any emission trade is quantifiable, accountable, enforceable and based on replicable procedures. (3-23-98)

b. The Tier I operating permit shall state that no permit revision shall be required under approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit. (4-5-00)

c. The Tier I operating permit shall, at a minimum, include a requirement that the owner or operator of the source, contemporaneously with making a change from one (1) trading scenario to another, record the change in a trading scenario log located and retained at the permitted facility and provide notice to the Department in accordance with Section 383.(3-23-98)

06. Monitoring. All Tier I operating permits shall contain the following with respect to monitoring: (5-1-94)

a. Sufficient monitoring to ensure compliance with all of the terms and conditions of the Tier I operating permit; (5-1-94)

b. All emissions monitoring and analysis procedures or test methods required under the applicable requirements; (5-1-94)

c. If the applicable requirement does not require specific periodic testing or monitoring, terms and conditions requiring periodic monitoring, recordkeeping, or both, that is sufficient to yield reliable data for the relevant time periods that are representative of the emissions unit's compliance with the Tier I operating permit, as reported pursuant to Subsection 322.08, and ensuring the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement; and (5-1-94)

d. Requirements that the Department determines are necessary, concerning the use, maintenance and installation of monitoring equipment or methods. (5-1-94)

07. Recordkeeping. All Tier I operating permits shall incorporate by reference all applicable requirements regarding recordkeeping and require all of the following: (5-1-94)

a. Sufficient recordkeeping to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Recording of monitoring information including but not limited to the following: (5-1-94)

i. The date, place (as defined in the Tier I operating permit) and time of sampling or measurements; (5-1-94)

ii. The date(s) analyses were performed; (5-1-94)

iii. The company or entity that performed the analyses; (5-1-94)

iv. The analytical techniques or methods used; (5-1-94)

v. The results of such analyses; and (5-1-94)

vi. The operating conditions existing at the time of sampling or measurement. (5-1-94)

c. Retention of all monitoring records and support information for a period of at least five (5) years from the date of the monitoring sample, measurement, report or application. Supporting information includes but is not limited to all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the Tier I operating permit. (5-1-94)

08. Reporting. All Tier I operating permits shall incorporate by reference all applicable requirements regarding reporting and require all of the following: (5-1-94)

a. Sufficient reporting to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

b. Prompt reporting of deviations from permit requirements including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

c. Submittal of reports for any required monitoring at least every six (6) months. All instances of deviations from Tier I operating permit requirements, which include monitoring, recordkeeping, and reporting, must be clearly identified in such reports. All required reports must be certified in accordance with Section 123. (4-5-00)

09. Testing. All Tier I operating permits shall contain terms and conditions requiring sufficient testing to assure compliance with all of the terms and conditions of the Tier I operating permit. (5-1-94)

10. Compliance Schedule and Progress Reports. All Tier I operating permits shall contain terms and conditions regarding the compliance plan submitted in the application in accordance with Subsection 314.10 including all of the following: (4-5-00)

a. For each applicable requirement for which the source is not in compliance at the

time of the permit issuance, terms and conditions consistent with the compliance schedule submitted by the applicant including all of the following: (4-5-00)

i. A schedule of remedial measures leading to compliance including an enforceable sequence of actions and specific dates for achieving the milestones and achieving compliance. (4-5-00)

ii. A requirement that the permittee submit periodic progress reports to the Department no less frequently than every six (6) months or at a more frequent period if one is specified in the underlying applicable requirement or by the Department. (5-1-94)

iii. A requirement that any progress report shall include a statement of when the milestones and compliance were or will be achieved, an explanation of why any dates in the compliance schedule submitted by the applicant or in the terms or conditions of the Tier I operating permit were not or will not be met and a detailed description of any preventative or corrective measures undertaken by the permittee. (5-1-94)

iv. All terms and conditions of any applicable consent order, judicial order, judicial consent decree, administrative order, settlement agreement or judgment. (5-1-94)

v. A statement that the terms and conditions regarding the compliance schedule are supplemental to, and do not sanction noncompliance with, the underlying applicable requirement. (5-1-94)

b. For each applicable requirement that will become effective during the term of the Tier I operating permit and that requires a detailed compliance schedule, the permit shall include such compliance schedule. (4-5-00)

c. For each applicable requirement that will become effective during the term of the Tier I operating permit that does not require a detailed compliance schedule, the permit shall include a statement that the permittee shall meet, on a timely basis, all such applicable requirements. (4-5-00)

11. Periodic Compliance Certifications. Each Tier I operating permit shall require submittal of compliance certifications during the term of the permit for each emissions unit to the Department and the EPA as follows: (5-1-94)

a. Compliance certifications for all emissions units shall be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department. (5-1-94)

b. The compliance certification for each emissions unit shall address all of the terms and conditions contained in the Tier I operating permit that are applicable to such emissions unit including emissions limitations, standards and work practices. (5-1-94)

c. The compliance certification shall be in an itemized format providing the following information: (5-1-94)

i. The identification of each term or condition of the Tier I operating permit that is the basis of the certification; (4-5-00)

ii. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period~~, *and whether such methods or other means provide continuous or intermittent data*~~. Such methods and other means shall include, at a minimum, the methods and means required ~~*by the Tier I operating permit. If necessary, the owner or operator shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Clean Air Act which prohibits knowingly making a false certification or omitting material information*~~ under Subsections 322.06, 322.07, and 322.08; ~~*(4-5-00)*~~(2-5-04)T

iii. The status of compliance with the terms and conditions of the Tier I operating permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in Subsection 322.11.c.ii. above. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR Part 64 occurred; and ~~*(4-5-00)*~~(2-5-04)T

iv. Such information as the Department may require to determine the compliance status of the emissions unit. (4-5-00)

d. All original compliance certifications shall be submitted to the Department and a copy of all compliance certifications shall be submitted to the EPA; (5-1-94)

12. Permit Conditions Regarding Acid Rain Allowances. (5-1-94)

a. A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds. (5-1-94)

b. No limit shall be placed on the number of allowances held by the source and no permit revisions shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement. (3-23-98)

c. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement. (5-1-94)

d. Any such allowance shall be accounted for according to the procedures established in 40 CFR Part 72 and 40 CFR Part 73. (5-1-94)

13. Permit Duration. Each Tier I operating permit shall state that it is effective for a fixed term of five (5) years; except that during the first four (4) years after EPA approval of the Tier I operating permit program, the permit may be issued with an initial term of three (3) years to five (5) years unless the Tier I source is also a Phase II source. (5-1-94)

14. Other Specific Requirements. Any terms or conditions determined by the

Department to be necessary for approval of the Tier I operating permit. (5-1-94)

15. General Requirements. Each Tier I operating permit shall contain provisions stating the following: (5-1-94)

a. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit revocation, termination, revocation and reissuance, or revision; or for denial of a permit renewal application. (5-1-94)

b. It shall not be a defense in an enforcement action that it would have been necessary to halt or reduce any activity in order to maintain compliance with the terms and conditions of this permit. (5-1-94)

c. This permit may be revised, revoked, reopened and reissued, or terminated for cause. (5-1-94)

d. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. (5-1-94)

e. This permit does not convey any property rights of any sort, or any exclusive privilege. (5-1-94)

f. The permittee shall furnish all information requested by the Department, within a reasonable time, that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing or terminating the permit or to determine compliance with the permit. (4-5-00)

g. Upon request, the permittee shall furnish to the Department copies of records required to be kept by this permit. (5-1-94)

h. The provisions of this permit are severable, and if any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby. (5-1-94)

i. The permittee shall comply with Sections 380 through 386 as applicable. (3-19-99)

j. Unless specifically identified as a “State Only” provision, all terms and conditions in the this permit, including any terms and conditions designed to limit a source's potential to emit, are enforceable: (5-1-94)

i. By the Department in accordance with State law; and (5-1-94)

ii. By the United States or any other person in accordance with Federal law. (5-1-94)

k. Provisions specifically identified as a “State Only” provision are enforceable only

in accordance with State law. "State Only" provisions are those that are not required under the Federal Clean Air Act or under any of its applicable requirements or those provisions adopted by the State prior to federal approval. (3-23-98)

l. Upon presentation of credentials, the permittee shall allow the Department or an authorized representative of the Department to do the following: (5-1-94)

i. Enter upon the permittee's premises where a Tier I source is located or emissions-related activity is conducted, or where records are kept under the conditions of this permit; (5-1-94)

ii. Have access to and copy, at reasonable times, any records that are kept under the conditions of this permit; (5-1-94)

iii. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit; and (5-1-94)

iv. Sample or monitor at reasonable times substances or parameters for the purpose of determining or ensuring compliance with this permit or applicable requirements. (5-1-94)

m. Nothing in this permit shall alter or affect the following: (5-1-94)

i. Any administrative authority or judicial remedy available to prevent or terminate emergencies or imminent and substantial dangers; (5-1-94)

ii. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance; (5-1-94)

iii. The applicable requirements of the acid rain program, consistent with 42 U.S.C. Section 7651g(a); (5-1-94)

iv. The owner or operator's duty to provide information. (5-1-94)

n. The owner or operator of a Tier I source shall pay registration fees to the Department in accordance with Sections 387 through 399, which are hereby incorporated by reference. (7-1-02)

o. All documents submitted to the Department shall be certified in accordance with Section 123 and comply with Section 124. (5-1-94)

p. If a timely and complete application for a Tier I operating permit renewal is submitted, but the Department fails to issue or deny the renewal permit before the end of the term of the previous permit, then all the terms and conditions of the previous permit including any permit shield that may have been granted pursuant to Section 325 shall remain in effect until the renewal permit has been issued or denied. (5-1-94)

q. The permittee shall promptly report deviations from permit requirements

including, but not limited to, those attributable to excess emissions. If the deviation is an excess emission, the report shall be submitted in accordance with the requirements of Sections 130 through 136. For all other deviations, the report shall be submitted in accordance with Subsection 322.08.c. unless the permit specifies another time frame. The reports shall describe the probable cause of such deviations and any corrective actions or preventative measures taken. (3-23-98)

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0304

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: The amendments to the temporary rule are effective December 1, 2004. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a temporary rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: The U.S. Environmental Protection Agency has revised regulations in 40 CFR Part 52, governing the New Source Review programs mandated by Title I of the Clean Air Act. DEQ has initiated this rulemaking to incorporate these changes into the Rules for the Control of Air Pollution in Idaho. Incorporation of the revisions to 40 CFR Part 52 into the Rules for the Control of Air Pollution in Idaho will include changes in New Source Review applicability requirements for modifications to allow sources of air emissions greater regulatory certainty, flexibility and permit streamlining while ensuring protection of public health and the environment. This rule was adopted by the Board of Environmental Quality as a temporary rule in February 2004 and is currently effective.

In May 2004, the Department of Environmental Quality (DEQ) published the proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, May 5, 2004, Volume 04-5, pages 116 through 137. All public comments received are in support of the rule, and the rule has been adopted as initially proposed.

After adoption of the temporary rule, DEQ discovered minor errors and requested that the Board amend the temporary rule for consistency with the pending rule. The temporary rule has been amended at Subsection 205.02.f. and the table in Section 225. The rulemaking record, which contains a detailed explanation for these changes, can be obtained by contacting the undersigned.

IDAHO CODE 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us.

DATED this 21st day of October, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

June 8, 2004, 5:15 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The U.S. Environmental Protection Agency has revised regulations in 40 CFR Part 52, governing the New Source Review programs mandated by Title I of the Clean Air Act. The Department of Environmental Quality (DEQ) has initiated this rulemaking to incorporate these changes into the Rules for the Control of Air Pollution in Idaho. Incorporation of the revisions to 40 CFR Part 52 into the Rules for the Control of Air Pollution in Idaho will include changes in New Source Review applicability requirements for modifications to allow sources of air emissions greater regulatory certainty, flexibility and permit streamlining while ensuring protection of public health and the environment. This rule was adopted by the Board of Environmental Quality as a temporary rule in February 2004 and is currently effective.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality for adoption of a pending rule. The pending rule will become final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

This docket has been previously published as a Temporary Rule. The temporary effective date is February 5, 2004. The original text of the Temporary Rule was published in the Idaho Administrative Bulletin, Volume 04-3, March 3, 2004, pages 20 through 41.

IDAHO CODE, SECTION 39-107D STATEMENT: This rule does not regulate an activity not

regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 through 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, November 5, 2003, Volume 03-11, page 89.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Martin Bauer at (208)373-0440, mbauer@deq.state.id.us, or Pat Nair at (208) 373-0447 or pnair@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before June 9, 2004.

DATED this 15th day of March, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton/Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

006. GENERAL DEFINITIONS.

Subsections 006.01 through 006.54 have no changes

~~***55. Major Facility.*** *(5-1-94)*~~

~~***a.*** *A major facility is either:* *(4-5-00)*~~

~~*i. Any facility which emits, or has the potential to emit, one hundred (100) tons per year or more of any regulated air pollutant; or* *(4-5-00)*~~

~~*ii. Any physical change that would occur at a facility not qualifying under Subsection*~~

~~*006.55.a.i. as a major facility, if the change would constitute a new major facility by itself.* (4-5-00)~~

~~***b.*** *A major facility that is major for volatile organic compounds shall be considered major for ozone.* (4-5-00)~~

~~***c.*** *The fugitive emissions of a facility shall not be included in determining for any of the purposes of this Section whether it is a major facility, unless the source is a designated facility or the source belongs to a stationary source category which, as of August 7, 1980, is being regulated under Sections 111 or 112 of the Clean Air Act.* (4-5-00)~~

~~***56. Major Modification***. (5-1-94)~~

~~***a.*** *Any physical change or change in the method of operation of a major facility that would result in a significant net emissions increase of any regulated air pollutant.* (4-5-00)~~

~~***b.*** *Any net emissions increase that is considered significant for volatile organic compounds shall be considered significant for ozone.* (4-5-00)~~

~~***c.*** *A physical change or change in the method of operation shall not include:* (4-5-00)~~

~~*i. Routine maintenance, repair, and replacement;* (4-5-00)~~

~~*ii. Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;* (4-5-00)~~

~~*iii. Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act;* (4-5-00)~~

~~*iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;* (4-5-00)~~

~~*v. Use of an alternative fuel or raw material by a facility which the facility was capable of accommodating before December 21, 1976 for facilities located in nonattainment areas or before January 6, 1975 for facilities located in attainment or unclassified areas, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976 for facilities located in nonattainment areas or before January 6, 1975 for facilities located in attainment or unclassified areas or under any permit issued by the Department or EPA;* (4-5-00)~~

~~*vi. An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 12, 1976 for facilities located in nonattainment areas or before January 6, 1975 for facilities located in attainment or unclassified areas.* (4-5-00)~~

~~*vii. Any change in ownership at a facility;* (4-5-00)~~

~~*viii. The addition, replacement, or use of a pollution control project at an existing electric utility steam generating unit, unless the Department determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except when the Department has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that facility in the most recent air quality impact analysis in the area conducted for the purpose of Title I, if any, and the Department determines that the increase will cause or contribute to a violation of any national ambient air quality standard or prevention of significant deterioration (PSD) increment, or visibility limitation;* (4-5-00)~~

~~*ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with the State Implementation Plan for the state in which the project is located, and other requirements necessary to maintain the national ambient air quality standard during the project and after it is terminated.* (4-5-00)~~

5~~7~~5. Member Of The Public. For purposes of Subsection 006.92.a.xxi., a person located at any off-site point where there is a residence, school, business or office. (4-5-00)

5~~8~~6. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which increases the amount of any regulated air pollutant emitted by such stationary source or facility or which results in the emission of any regulated air pollutant not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: (4-5-00)

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if the stationary source is specifically designed to accommodate such fuel or raw material and use of such fuel or raw material is not specifically prohibited in a permit.

(4-5-00)

5~~9~~7. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

~~60~~58. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary

for maximum combustion of the material to be burned. (5-1-94)

~~61~~59. New Stationary Source Or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

6~~2~~0. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

6~~3~~1. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

6~~4~~2. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)

6~~5~~3. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)

6~~6~~4. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)

6~~7~~5. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 386 and/or 400 through 461. (4-5-00)

6~~8~~6. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)

6~~9~~7. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method in accordance with Section 157. (4-5-00)

~~70~~68. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 228. (7-1-02)

~~71~~69. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)

7~~2~~0. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)

7~~3~~1. PM-10 Emissions. All particulate matter, including condensable particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method in accordance with Section 157. (4-5-00)

7~~4~~2. Potential To Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air pollutant, provided the limitation or its effect on emissions is state or federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. (4-5-00)

7~~5~~3. Portable Equipment. Equipment which is designed to be dismantled and transported from one (1) job site to another job site. (5-1-94)

7~~6~~4. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)

7~~7~~5. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)

a. Fire hazard reduction; (5-1-94)

b. The control of pests, insects, or diseases; (5-1-94)

c. The promotion of range forage improvements; (5-1-94)

d. The perpetuation of natural ecosystems; (5-1-94)

e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)

f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)

g. Other accepted natural resource management purposes. (5-1-94)

7~~8~~6. **Primary Ambient Air Quality Standard**. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)

7~~9~~7. **Process Or Process Equipment**. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)

~~80~~78. **Process Weight**. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)

~~81~~79. **Process Weight Rate**. The rate established as follows: (5-1-94)

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (4-5-00)

b. For cyclical or batch source operations, the total process weight for a period that covers a complete cycle of operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (4-5-00)

8~~2~~0. **Quantifiable**. The Department must be able to determine the emissions impact of any SIP trading programs requirement(s) or emission limit(s). (4-5-00)

8~~3~~1. **Radionuclide**. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)

8~~4~~2. **Regulated Air Pollutant**. The following air pollutants: (4-5-00)

a. Nitrogen oxides or any volatile organic compounds. (4-5-00)

b. Any pollutant for which a national ambient air quality standard has been promulgated. (4-5-00)

c. Any pollutant that is subject to any standard promulgated under 42 U.S.C. Section 7411. (4-5-00)

d. Any Class I or II substance subject to a standard promulgated under or established under 42 U.S.C. Sections 7671a(a) or 7671a(b). (4-5-00)

e. Any air pollutant subject to a standard promulgated under 42 U.S.C. Section 7412 or other requirements established under 42 U.S.C. Section 7412, including 42 U.S.C. Section 7412(g), (j), and (r), including the following: (4-5-00)

i. Any air pollutant subject to requirements under 42 U.S.C. Section 7412(j). If the EPA fails to promulgate a standard by the date established pursuant to 42 U.S.C. Section 7412(e), any air pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen (18) months after the applicable date established pursuant to 42 U.S.C. Section 7412(e); and (4-5-00)

ii. Any air pollutant for which the requirements of 42 U.S.C. Section 7412(g)(2) have been met, but only with respect to the individual source subject to 42 U.S.C. Section 7412(g)(2) requirement. (4-5-00)

f. Any air pollutant listed in Sections 585, 586, or subject to regulation pursuant to Section 161. Unless otherwise listed in Subsections 006.84.a. through 006.84.e., these pollutants do not constitute regulated air pollutants for purposes of Sections 300 through 399. (7-1-02)

8~~5~~3. Replicable. Any SIP procedures for applying emission trading shall be structured so that two (2) independent entities would obtain the same result when determining compliance with the emission trading provisions. (4-5-00)

8~~6~~4. Responsible Official. One (1) of the following: (5-1-94)

a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)

i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000) (in second quarter 1980 dollars); or (4-5-00)

ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)

b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)

c. For a municipality, State, Federal, or other public agency: either a principal

executive officer or ranking elected official. For the purposes of Section 123, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (4-5-00)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

8~~7~~5. Safety Measure. Any shutdown (and related startup) or bypass of equipment or processes undertaken to prevent imminent injury or death or severe damage to equipment or property which may cause excess emissions. (4-5-00)

8~~8~~6. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

8~~9~~7. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

~~90~~88. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

~~91~~89. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

9~~2~~0. Significant. A rate of regulated air pollutant emissions that would equal or exceed any of the following: (4-5-00)

a. Air pollutant emissions and rate: (5-1-94)

i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)

ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)

iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)

iv. Particulate matter, twenty-five (25) tons per year; (5-1-94)

v. Ozone, forty (40) tons per year of volatile organic compounds as a measure of ozone; (5-1-94)

vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)

vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)

viii. Beryllium, four ten-thousandths (0.0004) of a ton per year; (5-1-94)

ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)

x. Vinyl chloride, one (1) ton per year; (5-1-94)

xi. Fluorides, three (3) tons per year; (5-1-94)

xii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)

xiii. Hydrogen sulfide (H2S), ten (10) tons per year; (5-1-94)

xiv. Total reduced sulfur (including H2S), ten (10) tons per year; (5-1-94)

xv. Reduced sulfur compounds (including H2S), ten (10) tons per year; (5-1-94)

xvi. PM-10, fifteen (15) tons per year; (5-1-94)

xvii. Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)

xviii. Municipal waste combustor metals (measured as particulate matter), fifteen (15) tons per year; (5-1-94)

xix. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)

xx. Municipal solid waste landfill emissions (measured as nonmethane organic compounds), fifty (50) tons per year; (4-5-00)

xxi. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least one tenth (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year. (5-1-95)

b. In reference to a net emissions increase or the potential of a source or facility to emit a regulated air pollutant not listed in Subsection 006.92.a. above and not a toxic air pollutant,

any emission rate; or (4-5-00)

c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted regulated air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (4-5-00)

9~~3~~1. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)

a. Sulfur dioxide: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)

iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)

b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)

c. Carbon monoxide: (5-1-94)

i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)

ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)

d. PM-10: (5-1-94)

i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)

9~~4~~2. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)

9~~5~~3. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)

9~~6~~4. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)

9~~7~~5. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)

9~~8~~6. Source. A stationary source. (5-1-94)

9~~9~~7. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)

a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)

b. Is not an air cleaning device. (5-1-94)

***~~100~~*98. Stack**. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)

***~~101~~*99. Standard Conditions**. Except as specified in Subsection 576.02 for ambient air quality standards, a dry gas temperature of twenty degrees Celsius (20C) sixty-eight degrees Fahrenheit (68F) and a gas pressure of seven hundred sixty (760) millimeters of mercury (14.7 pounds per square inch) absolute. (4-5-00)

10~~2~~0. Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)

10~~3~~1. Stationary Source. Any building, structure, emissions unit, or installation which emits or may emit any air pollutant. (4-5-00)

10~~4~~2. Tier I Source. Any of the following: (5-1-94)

a. Any source located at any major facility as defined in Section 008; (4-5-00)

b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60; (5-1-94)

c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-1-94)

d. Any Phase II source; and (5-1-94)

e. Any source in a source category designated by the Department. (5-1-94)

10~~5~~3. Total Suspended Particulates. Particulate matter as measured by the method described in 40 CFR 50 Appendix B. (4-5-00)

10~~6~~4. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)

10~~7~~5. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality

increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one (1) microgram per cubic meter (1 ug/m3) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)

10~~8~~6. **Toxic Air Pollutant Non-carcinogenic Increments**. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)

10~~9~~7. **Toxic Substance**. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)

1~~1~~08. **Trade Waste**. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)

1~~11~~09. **TRS (Total Reduced Sulfur)**. Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)

11~~2~~0. **Unclassifiable Area**. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)

11~~3~~1. **Uncontrolled Emission**. An emission which has not been treated by control equipment. (5-1-94)

11~~4~~2. **Upset**. An unplanned disruption in the normal operations of any equipment or emissions unit which may cause excess emissions. (4-5-00)

11~~5~~3. **Wigwam Burner**. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)

11~~6~~4. **Wood Stove Curtailment Advisory**. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.
The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct." As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b),

revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) (to be codified at 40 CFR 52.21(b)), and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) (to be codified at 40 CFR 52.21(b)). These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. ~~(7-1-02)~~(2-5-04)T

(BREAK IN CONTINUITY OF SECTIONS)

202. APPLICATION PROCEDURES.
Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 228. (7-1-02)

01. Required Information. Depending upon the proposed size and location of the new or modified stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: (5-1-94)

a. For any new or modified stationary source or facility: (5-1-94)

i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)

ii. A schedule for construction of the stationary source, facility, or modification. (5-1-94)

b. For any new major facility or major modification in a nonattainment area which would be major for the nonattainment regulated air pollutant(s): (4-5-00)

i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (5-1-94)

ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources, mobile sources, or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (4-5-00)

iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. (5-1-94)

iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (5-1-94)

v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department)~~, *except for those new major facilities and major modifications exempted by Subsection 204.04*~~.
~~*(5-1-94)*~~(2-5-04)T

c. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant~~, *except for those new major facilities and major modifications exempted under Subsection 205.04*~~. ~~*(4-5-00)*~~(2-5-04)T

i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (5-1-94)

ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (5-1-94)

iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (5-1-94)

iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or major modification would affect. (5-1-94)

v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an analysis of the impact on vegetation or soils having no significant commercial or recreational value. (5-1-94)

vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (5-1-94)

vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each regulated air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (4-5-00)

viii. Ambient analyses as specified in Subsections 202.01c.vii., 202.01c.ix., 202.01c.x., and 202.01c.xii., may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular regulated air pollutant in any area that the new major facility or major modification would affect are less than the following amounts, or the regulated air pollutant is not listed herein: carbon monoxide - five hundred and seventy-five (575) micrograms per cubic meter, eight (8) hour average; nitrogen dioxide - fourteen (14) micrograms per cubic meter, annual average; PM-10 - ten (10) micrograms per cubic meter, twenty-four (24) hour average; sulfur dioxide - thirteen (13) micrograms per cubic meter, twenty-four (24) hour average; ozone - any net increase of one hundred (100) tons per year or more of volatile organic compounds, as a measure of ozone; lead - one-tenth (0.1) of a microgram per cubic meter, calendar quarterly average; mercury - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; beryllium - one-thousandth (0.001) of a microgram per cubic meter, twenty-four (24) hour average; fluorides - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; vinyl chloride - fifteen (15) micrograms per cubic meter, twenty-four (24) hour average; hydrogen sulfide - two-tenths (0.2) of a microgram per cubic meter, one (1) hour average. (4-5-00)

ix. For any regulated air pollutant which has an ambient air quality standard, the analysis shall include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that regulated air pollutant would cause or contribute to a violation of the ambient air quality standard or any prevention of significant deterioration (PSD) increment. (4-5-00)

x. For any regulated air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (4-5-00)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (5-1-94)

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (5-1-94)

02. Estimates Of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models). (4-5-00)

a. Where an air quality model specified in the "Guideline on Air Quality Models," is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (4-5-00)

b. Methods like those outlined in the U.S. Environmental Protection Agency's

"Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. (5-1-94)

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. (5-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS~~*–AND IN THE FORMER PM-10 NORTHERN ADA COUNTY NONATTAINMENT AREA (AS DEFINED IN SECTION 582)*~~.
~~*The provision specifically referencing the former PM-10 northern Ada County nonattainment area in Section 204 shall expire by its terms and without further action when the EPA designates the former nonattainment area as either attainment or nonattainment. No permit to construct shall be granted for a n*~~New major facilit~~*y*~~ies or major modifications ~~*which is*~~ proposed for location in a nonattainment area ~~*or in the former PM-10 northern Ada County nonattainment area*~~ and which would be major for the nonattainment regulated air pollutant~~*(s) unless the applicant shows to the satisfaction of the Department all of the following:*~~ are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. ~~*(3-30-01)*~~(2-5-04)T

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165, revised as of July 1, 2003, and supplemented by 68 Fed. Reg. 63,021 (November 7, 2003) (to be codified at 40 CFR 51.165), are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) and 68 Fed. Reg. 63,021 (November 7, 2003) (to be codified at 40 CFR 52.21), are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii)(A) - (J)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 51.165(c)	Clean Unit Test for Emission Units that are Subject to LAER
40 CFR 51.165(d)	Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALs

(2-5-04)T

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (2-5-04)T

01**a.** LAER. Except as otherwise provided in Section 204, *T*the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: *(4-5-00)*(2-5-04)T

*a*i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

*b*ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

02**b.** Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

03**c.** Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

04**d.** Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory federal Class I area, by the new major facility or major modification is consistent with making reasonable progress toward remedying existing and preventing future visibility impairment*, except that:*. *(5-1-94)*

a. *New major facilities, or major modifications to major facilities, which are not designated facilities and which do not emit or have the potential to emit two-hundred fifty (250) tons per year, or more, of any regulated air pollutant are exempt.* *(4-5-00)*

b. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR Part 51.304(a), may be exempted from Section 204 by the Department. *(5-1-94)*(2-5-04)T

03. Nonmajor Requirements. If the proposed action meets the requirements of an

exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (2-5-04)T

~~***05. Definition Of "Nonattainment Regulated Air Pollutant(s)"**. For the purposes of Section 204, the term "nonattainment regulated air pollutant(s)" shall be defined to include the pollutant PM-10 in the former northern Ada County nonattainment area. (3-30-01)*~~

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.
The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (2-5-04)T

01. ~~***Requirements For Issuance Of Permit**. No permit to construct shall be granted for a new major facility or major modification which is proposed for location in an attainment or unclassifiable area for any regulated air pollutant, unless the applicant shows to the satisfaction of the Department that:*~~ **Incorporated Federal Program Requirements**. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 2003, and supplemented by 67 Fed. Reg. 80,186 (December 31, 2002) and 68 Fed. Reg. 63,021 (November 7, 2003) (to be codified at 40 CFR 52.21), are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(x)	Clean Unit Test
40 CFR 52.21(y)	Clean Unit Provisions for Emissions Units that Achieve an Emission Limit Comparable to BACT
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALS

~~*(4-5-00)*~~(2-5-04)T

~~*a. The new major facility or major modification would use the best available control technology (BACT):* (5-1-94)~~

~~*i. For each regulated air pollutant for which a new major facility would have the potential to emit in excess of the significant rates as defined in Section 006; and* (4-5-00)~~

~~*ii. At each new or modified emissions unit which has a net emissions increase of each regulated air pollutant for which a major modification has a significant net emissions increase.* (4-5-00)~~

~~*b. The allowable emission increases from the new major facility or major modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not:* (5-1-94)~~

~~*i. Cause or significantly contribute to violations of any ambient air quality standard; and* (5-1-94)~~

~~*ii. Cause or contribute to violations of any applicable prevention of significant deterioration (PSD) increment;* (5-1-94)~~

~~*c. The emission increases from the new major facility or major modification would not have an adverse impact on the air quality related values, including visibility, of any federal Class I area or Class I area designated by the Department, and any effect on visibility of any integral vista of a mandatory federal Class I area would be consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. However, any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the required identification criteria, may be exempted by the Department.* (4-5-00)~~

~~*02. Phased Construction Projects. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at least eighteen (18) months prior to commencement of each independent phase of the project.* (5-1-94)~~

0~~3~~2. ~~*Innovative Control Technology*~~. ~~*If requested by the owner or operator of the new major facility or major modification, the Department may, with the consent of the Governor of any other affected state, approve a system of innovative control technology.*~~ **Exception to Incorporation by Reference of 40 CFR 52.21**. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: ~~(5-1-94)~~(2-5-04)T

a. ~~*A proposed system of innovative control technology may be approved if:*~~ In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. ~~(5-1-94)~~(2-5-04)T

~~*i. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;* (5-1-94)~~

~~*ii. The owner or operator agrees to achieve a level of continuous emissions control equivalent to that which would have been required for BACT by a date specified by the Department, but not later than four (4) years from the time of start-up or seven (7) years from permit issuance;* (5-1-94)~~

~~*iii. The allowable emissions from the facility employing the system of innovative control technology satisfy all other applicable requirements;* (4-5-00)~~

~~*iv. Prior to the date established pursuant to Subsection 205.03.a.ii., the new major facility or major modification would not cause or significantly contribute to any violation of an ambient air quality standard, impact any Class I area, or impact any area where a prevention of significant deterioration (PSD) increment is known to be violated.* (4-5-00)~~

b. ~~*The Department shall withdraw its approval to employ a system of innovative control technology if:*~~ In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator. ~~*(5-1-94)*~~(2-5-04)T

~~*i. The proposed system fails by the specified date to achieve the required continuous emission control;* (5-1-94)~~

~~*ii. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or* (5-1-94)~~

~~*iii. The Department decides that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.* (5-1-94)~~

c. ~~*If the system of innovative control technology fails to meet the required level of continuous emission control or if approval for the system is withdrawn by the Department, the Department may allow the new major facility or major modification up to three (3) years from the date of withdrawal to meet the requirement for the application of BACT through the use of a demonstrated system of control.*~~ In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. ~~*(5-1-94)*~~(2-5-04)T

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (2-5-04)T

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (2-5-04)T

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse, *Administrator* means the EPA Administrator. ~~*(2-5-04)T*~~(12-1-04)T

04~~.~~3. ~~*Exemptions*~~ Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. ~~*(5-1-94)*~~(2-5-04)T

~~***a.*** *New major facilities, or major modifications to major facilities, which are not*~~

~~*designated facilities and which do not emit or have the potential to emit two hundred fifty (250) tons per year, or more, of any regulated air pollutant are exempt from complying with the conditions of Subsections 205.01.a., 205.01.b.ii., and 205.01.c., for obtaining a permit to construct.* (4-5-00)~~

~~***b.*** *Temporary emissions (one (1) year or less in duration unless otherwise approved by the Department) from a new major facility or major modification that would not impact a Class I area or area where an applicable prevention of significant deterioration (PSD) increment is known to be violated are exempt from complying with the conditions of Subsections 205.01.b. and 205.01.c. for obtaining a permit to construct.* (4-5-00)~~

206. OPTIONAL OFFSETS FOR PERMITS TO CONSTRUCT.
The owner or operator of any proposed new or modified stationary source, new major facility, or major modification, which cannot meet the requirements of Subsections 202.01.c.vi., 203.02, 203.03, 204.0~~4~~2.d., 205.01~~.b.~~ (40 CFR 52.21(k)) ~~*or 205.01.c.*~~, and 209.02.b.vi., may propose the use of an emission offset in order to meet those requirements and thereby obtain a permit to construct. Any proposed emission offset must satisfy the requirements for emission reduction credits, Section 460, and demonstrate, through appropriate dispersion modeling, that the offset will reduce ambient concentrations sufficiently to meet the requirements at all modeled receptors which could not otherwise have met the requirements. ~~*(6-30-95)*~~(2-5-04)T

(BREAK IN CONTINUITY OF SECTIONS)

209. PROCEDURE FOR ISSUING PERMITS.

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Upon written request of the applicant, provide a draft permit for applicant review. Agency action on the permit under this Section may be delayed if deemed necessary to respond to applicant comments. (4-5-00)

ii. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Subsection 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

iii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)

c. An opportunity for public comment will be provided on all applications requiring a permit to construct. Public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Subsection 210.17, any application which the Director determines an opportunity for public comment should be provided, and any application upon which the applicant so requests. (5-3-03)

i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)

ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)

iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)

iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)

v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)

vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)

d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)

02. Additional Procedures For Specified Sources. (5-1-94)

a. For any new major facility or major modification in an attainment or unclassifiable area for any regulated air pollutant~~*, except for those new major facilities and major modifications exempted under Subsection 205.04*~~. ~~*(4-5-00)*~~(2-5-04)T

i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)

ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)

i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (3-23-98)

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of regulated air pollutants would not exceed the maximum allowable increases for a Class I area. (4-5-00)

03. Establishing A Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions Of Permits To Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 228. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., and 209.02.b., shall only apply if the permit revision results in an increase in emissions authorized by the permit or if deemed appropriate by the Director. (7-1-02)

05. Permit To Construct Procedures For Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 219 for a permit to construct, in which case: (3-23-98)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (3-23-98)

iii. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02. (4-5-00)

iv. Unless a different time is prescribed by these rules, the applicable requirements contained in a permit to construct will be incorporated into the Tier I operating permit during renewal (Section 269). Where an existing Tier I permit would prohibit such construction or change in operation, the source must obtain a permit revision before commencing operation. Tier I sources required to meet the requirements under Section 112(g) of the Clean Air Act (Section 214), or to have a permit under the preconstruction review program approved into the applicable implementation plan under Part C (Section 205) or Part D (Section 204) of Title I of the Clean Air Act, shall file a complete application to obtain a Tier I permit revision within twelve (12) months after commencing operation. (3-19-99)

v. The application or minor or significant permit modification request shall be processed in accordance with timelines: Section 361 and Subsections 367.02 through 367.05. (3-19-99)

vi. The final Tier I operating permit action shall incorporate the relevant terms and conditions from the permit to construct; or (4-5-00)

b. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 386 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)

ii. The Department shall prepare a proposed permit to construct or denial in accordance with Sections 200 through 219 and a draft Tier I operating permit or Tier I operating permit modification in accordance with Sections 300 through 386 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364 and 365 on the proposed permit to construct or denial and draft Tier I operating permit or Tier I operating permit modification. (4-5-00)

iv. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial within fifteen (15) days of the close of the public comment period. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

v. The final permit to construct will be sent to EPA, along with the proposed Tier I operating permit or modification. The proposed Tier I operating permit or modification shall be sent for review in accordance with Section 366. (4-5-00)

vi. The Tier I operating permit, or Tier I operating permit modification, will be issued in accordance with Section 367. The owner or operator may operate the source after permit to construct issuance so long as it does not violate any terms or conditions of the existing Tier I operating permit and complies with Subsection 380.02; or (4-5-00)

c. Submit all information required by Sections 200 through 219 for a permit to construct and Sections 300 through 381 for a Tier I operating permit, or Tier I operating permit modification, in which case: (4-5-00)

i. Completeness of the application shall be determined within thirty (30) days. (4-5-00)

ii. The Department shall prepare a draft permit to construct or denial in accordance with Sections 200 through 219 and that also meets the requirements of Sections 300 through 381 within sixty (60) days. (4-5-00)

iii. The Department shall provide for public comment and affected state review in accordance with Sections 209, 364, and 365 on the draft permit to construct or denial. (4-5-00)

iv. The Department shall prepare and send a proposed permit to construct or denial to EPA for review in accordance with Section 366. EPA review of the proposed permit to construct or denial in accordance with Section 366 can occur concurrently with public comment and affected state review of the draft permit, as provided in Subsection 209.05.c.iii. above, except that if the draft permit or denial is revised in response to public comment or affected state review, the Department must send the revised proposed permit to construct or denial to EPA for review in accordance with Section 366. (4-5-00)

v. Except as otherwise provided by these rules, the Department shall prepare and issue to the owner or operator a final permit to construct or denial in accordance with Section 367. The owner or operator may construct the source after permit to construct issuance or in accordance with Subsection 213.02.c. (4-5-00)

vi. The permittee may, at any time after issuance, request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 381. The owner or operator may operate the source or modification upon submittal of the request for an administrative amendment. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

225. PERMIT TO CONSTRUCT PROCESSING FEE.
A permit to construct processing fee, calculated by the Department pursuant to the categories provided in the following table, shall be paid to the Department by the person receiving the permit. The applicable processing fee category shall be determined by adding together the amount of increases of regulated pollutant emissions and subtracting any decreases of regulated pollutant emissions as identified in the permit to construct. The fee calculation shall not include fugitive emissions.

PERMIT TO CONSTRUCT CATEGORY	FEE
General permit, no facility-specific requirements (Defined as a source category specific permit for which the Department has developed standard emission limitations, operating requirements, monitoring and recordkeeping requirements, and that require minimal engineering analysis. General permit facilities may include portable concrete batch plants, portable hot-mix asphalt plants and portable rock crushing plants.)	$500
New source or modification to existing source with increase of emissions of less than one (1) ton per year	$1,000
New source or modification to existing source with increase of emissions of one (1) to less than ten (10) tons per year	$2,500
New source or modification to existing source with increase of emissions of ten (10) to less than one hundred (100) tons per year	$5,000
Nonmajor new source or modification to existing source with increase of emissions of one hundred (100) tons per year ~~*exempt under Subsection 205.04*~~ *or more*	$7,500
New major facility or major modification ~~*not exempt under Subsection 205.04*~~	$10,000
Permit modifications where no engineering analysis is required	$250
Application submittals for exemption applicability determinations, typographical errors, and name and ownership changes as described in Subsections 224.01, 224.02, 224.03	$0.00

~~*(2-5-04)T*~~(12-1-04)T

(BREAK IN CONTINUITY OF SECTIONS)

401. TIER II OPERATING PERMIT.

01. Optional Tier II Operating Permits. The owner or operator of any stationary source or facility which is not subject to (or wishes to accept limitations on the facility's potential to emit so as to not be subject to) Sections 300 through 399 may apply to the Department for an operating permit to: (7-1-02)

a. Authorize the use of alternative emission limits (bubbles) pursuant to Section 440; (5-1-94)

b. Authorize the use of an emission offset pursuant to Sections 204.02.b. or 206; ~~*(5-1-94)*~~(2-5-04)T

c. Authorize the use of a potential to emit limitation, an emission reduction or netting transaction to exempt a facility or modification from certain requirements for a permit to construct; (4-5-00)

d. Authorize the use of a potential to emit limitation to exempt the facility from Tier I permitting requirements. (4-5-00)

e. Bank an emission reduction credit pursuant to Section 461; (5-1-94)

02. Required Tier II Operating Permits. A Tier II operating permit is required for any stationary source or facility which is not subject to Sections 300 through 399 with a permit to construct which establishes any emission standard different from those in these rules. (7-1-02)

03. Tier II Operating Permits Required By The Department. The Director may require or revise a Tier II operating permit for any stationary source or facility whenever the Department determines that: (5-1-94)

a. Emission rate reductions are necessary to attain or maintain any ambient air quality standard or applicable prevention of significant deterioration (PSD) increment; or(4-5-00)

b. Specific emission standards, or requirements on operation or maintenance are necessary to ensure compliance with any applicable emission standard or rule. (5-1-94)

04. Multiple Tier II Operating Permits. Subject to approval by EPA, the Director may issue one (1) or more Tier II operating permits to a facility which allow any specific stationary source or emissions unit within that facility a future compliance date of up to three (3) years beyond the compliance date of any provision of these rules, provided the Director has reasonable cause to believe such a future compliance date is warranted. (4-5-00)

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 1, 2004, Vol. 04-9, pages 223 through 227. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.state.id.us.

DATED this 18th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

October 4, 2004, 4 p.m.

Department of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Department of Environmental Quality (DEQ) announced this negotiated rulemaking in the March 3, 2004 issue of the Idaho Administrative Bulletin to review, and revise as necessary, the structure and efficiency of the air quality permitting rules to modernize, update, and clarify appropriate portions. Since this rulemaking has the potential to be a very lengthy process, the negotiating committee anticipates submitting several proposed rule dockets in order to accomplish its rulemaking objectives. The proposed rule being submitted under this docket is the first of these proposed rules.

This proposed rule removes certain criteria for permit to construct exemptions to align those provisions with Environmental Protection Agency statements.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

INTENT: In proposing a State Implementation Plan (SIP) approval of Idaho's permit to construct (PTC) exemption rules, EPA stated:

EPA has carefully reviewed the list of categorically exempt sources and the "below regulatory concern" levels in Sections 221, 222.01 and 222.02 and believes that these categories and levels are consistent with what has been approved elsewhere for purposes of exempting de minimis sources from minor NSR requirements. As a result, Idaho's requirement for self-modeling as an additional exemption criteria only further narrows exemption provisions which would be approvable even without the modeling provision.

67 Fed. Reg. 52666, 52670 (Aug. 13, 2002). In the final rule, EPA stated that it "did not base its approval of the minor new source review exemption provisions on this modeling requirement". 68 Fed. Reg. 2217, 2218 (Jan. 16, 2003).

As a result of EPA's statements, DEQ is proposing to remove the modeling requirement located at IDAPA 58.01.01.220.01.a.iii.

Although DEQ is proposing to remove the modeling requirement from the PTC exemption rules, it retains the legal authority pursuant to IDAPA 58.01.01.401.03 to require a source to obtain an air quality permit to ensure compliance with applicable rules, including the National Ambient Air Quality Standards (NAAQS).

Pursuant to Section 110 of the Clean Air Act, the federal government provides States with the primary responsibility to establish minor air quality permitting programs to ensure the States' ambient air attains and maintains the NAAQS. The federal government does not prescribe how states meet the NAAQS. Thus, this State's minor permitting program is not "broader in scope or more stringent than federal law or regulations". Idaho Code § 39-107D. That said, as noted above, EPA did state that the exemptions would be approvable even without the modeling provision; hence, DEQ proposes removal of this provision.

EPA noted the modeling provision was not required because the below regulatory concern levels and listed categories are consistent with what has been approved elsewhere for purposes of exempting de minimis sources. DEQ does not intend to change the PTC exemption's below regulatory concern level in subsequent rulemakings; however, by way of negotiated rulemaking, it may propose to add source categories that fit the de minimis source qualification to the current Section 222 list.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: There are no fees associated with this proposed rulemaking.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held and concerns raised during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812-815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, March 3, 2004, Vol. 04-3, page 42.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Martin Bauer at (208) 373-0440 or mbauer@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rulemaking. DEQ will consider all written comments received by the undersigned on or before October 4, 2004.

DATED this 28th day of July, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT THE PENDING RULE

220. GENERAL EXEMPTION CRITERIA FOR PERMIT TO CONSTRUCT EXEMPTIONS.

01. General Exemption Criteria. Sections 220 through 223 may be used by owners or operators to exempt certain sources from the requirement to obtain a permit to construct. Nothing in these sections shall preclude an owner or operator from choosing to obtain a permit to construct. For purposes of Sections 220 through 223, the term source means the equipment or activity being exempted. No permit to construct is required for a source that satisfies all of the following criteria, in addition to the criteria set forth at Sections 221, 222, or 223: (4-5-00)

a. The maximum capacity of a source to emit an air pollutant under its physical and operational design without consideration of limitations on emission such as air pollution control equipment, restrictions on hours of operation and restrictions on the type and amount of material combusted, stored or processed would not: (4-5-00)

i. Equal or exceed one hundred (100) tons per year of any regulated air pollutant. (4-5-00)

ii. Cause an increase in the emissions of a major facility that equals or exceeds the significant emissions rates set out in the definition of significant at Section 006. (4-5-00)

~~*iii. Cause or significantly contribute to a violation of an ambient air quality standard, based upon the applicable air quality models, data bases, and other requirements of 40 CFR Part 51, Appendix W (Guideline on Air Quality Models). No demonstration under this subsection is required for those sources listed at Subsection 222.02.* (4-5-00)~~

b. Combination. The source is not part of a proposed new major facility or part of a proposed major modification. (4-5-00)

02. Record Retention. Unless the source is subject to and the owner or operator complies with Section 385, the owner or operator of the source, except for those sources listed in Subsections 222.02.a. through 222.02.g., shall maintain documentation on site which shall identify the exemption determined to apply to the source and verify that the source qualifies for the identified exemption. The records and documentation shall be kept for a period of time not less than five (5) years from the date the exemption determination has been made or for the life of the source for which the exemption has been determined to apply, which ever is greater, or until such time as a permit to construct or an operating permit is issued which covers the operation of the source. The owner or operator shall submit the documentation to the Department upon request. (4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

222. CATEGORY II EXEMPTION.
No permit to construct is required for the following sources. (4-5-00)

01. Exempt Source. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Laboratory equipment used exclusively for chemical and physical analyses, research or education, including, but not limited to, ventilating and exhaust systems for laboratory hoods. To qualify for this exemption, the source shall: (5-1-94)

i. Comply with Section 223. (4-5-00)

ii. Have potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

b. Environmental characterization activities including emplacement and operation of field instruments, drilling of sampling and monitoring wells, sampling activities, and environmental characterization activities. (4-5-00)

c. Stationary internal combustion engines of less than or equal to six hundred (600) horsepower and which are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. To qualify for this exemption, the source must be operated in accordance with the following: (5-1-94)

i. One hundred (100) horsepower or less -- unlimited hours of operation. (5-1-94)

ii. One hundred one (101) to two hundred (200) horsepower -- less than four hundred fifty (450) hours per month. (5-1-94)

iii. Two hundred one (201) to four hundred (400) horsepower -- less than two hundred twenty-five (225) hours per month. (5-1-94)

iv. Four hundred one (401) to six hundred (600) horsepower -- less than one hundred fifty (150) hours per month. (5-1-94)

d. Stationary internal combustion engines used exclusively for emergency purposes which are operated less than two hundred (200) hours per year and are fueled by natural gas, propane gas, liquefied petroleum gas, distillate fuel oils, residual fuel oils, and diesel fuel; waste oil, gasoline, or refined gasoline shall not be used. (4-5-00)

e. A pilot plant that uses a slip stream from an existing process stream not to exceed ten percent (10%) of that existing process stream or which satisfies the following: (4-5-00)

i. The source shall comply with Section 223. For carcinogen emissions, the owner or

operator may utilize a short term adjustment factor of ten (10) by multiplying either the acceptable ambient concentration or the screening emissions level, but not both, by ten (10). (4-5-00)

ii. The source shall have uncontrolled potential emissions that are less than one percent (1%) of the applicable radionuclides standard in 40 CFR Part 61, Subpart H. (4-5-00)

iii. The exemption for a pilot plant shall terminate one (1) year after the commencement of operations and shall not be renewed. (4-5-00)

~~*f. Any other source specifically exempted by the Department. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request.* (4-5-00)~~

02. Other Exempt Sources. A source that satisfies the criteria set forth in Section 220 and that is specified below: (4-5-00)

a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)

b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)

c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas exclusively with a capacity of less than fifty (50) million btu's per hour input. (5-1-94)

d. Other fuel burning equipment for indirect heating with a capacity of less than one million (1,000,000) btu's per hour input. (5-1-94)

e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

f. Agricultural activities and services. (5-1-94)

g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

h. Used Oil Fired Space Heaters which comply with all the following requirements: (7-1-97)

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 58.01.05.015, “Rules and Standards for Hazardous Waste”; (7-1-97)

(1) For the purposes of Subsection 222.02.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (4-5-00)

(2) For the purposes of Subsection 222.02.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (4-5-00)

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals; (7-1-97)

iii. The used oil fired space heater is designed to have a maximum capacity of not more than one half (0.5) million BTU per hour; (4-5-00)

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (7-1-97)

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (7-1-97)

03. Any Other Source Specifically Exempted by the Department. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request. All sources exempted by the Department shall: (4-5-00)

a. Be analyzed by the Department and determined to meet the requirements of Subsections 220.01.a.i. and 220.01.a.ii. (4-5-00)

b. Be analyzed by the Department and determined not to cause or significantly contribute to a violation of any ambient air quality standard. (4-5-00)

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 58-0101-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Vol. 04-8, pages 181 through 188. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.state.id.us.

DATED this 18th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code. This rulemaking updates citations to the federal regulations incorporated by reference as mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

DEPARTMENT OF ENVIRONMENTAL QUALITY ***Docket No. 58-0101-0402***
Rules for the Control of Air Pollution ***PENDING RULE***

PUBLIC HEARING SCHEDULE: A public hearing concerning this proposed rulemaking will be held as follows:

September 8, 2004, 4:00 p.m.
Department of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rulemaking is necessary to ensure that the Rules for the Control of Air Pollution in Idaho will remain consistent with federal regulations. This proposed rule updates citations to federal regulations incorporated by reference to include those revised as of July 1, 2004.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: No fee is being imposed or increased by this rulemaking.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Martin Bauer at (208) 373-0440 or mbauer@deq.state.id.us.

Anyone may submit written comments regarding this proposed rulemaking. Written comments may be submitted by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 8, 2004.

DATED this 30th day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

01. Affected States. All States: (5-1-94)

a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)

b. That are within fifty (50) miles of the Tier I source. (5-1-94)

02. Allowance. An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)

03. Applicable Requirement. All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)

a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)

b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (4-5-00)

c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)

d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)

e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)

f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)

g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)

h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)

i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (4-5-00)

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (4-5-00)

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-5-00)

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under

40 CFR Part 70, revised as of July 1, 200~~3~~4, are hereby incorporated by reference.
~~*(3-20-04)*~~( )

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: U.S. Government Printing Office, http://www.gpoaccess.gov/index.html; and (3-20-04)

b. All documents herein incorporated by reference: (7-1-97)

i. Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255

at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Department of Environmental Quality, November 1996. (3-19-99)

c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

e. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

f. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

g. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

h. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

i. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

j. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

k. Compliance Assurance Monitoring, 40 CFR Part 64, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

l. Permits, 40 CFR Part 72, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

m. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

n. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 200~~3~~4. ~~*(3-20-04)*~~( )

o. Clean Air Act, 42 U.S.C. Sections 7401 through 7671g (1997). (3-19-99)

p. Determining Conformity of Federal Actions to State or Federal Implementation Plans: Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, 40 CFR Part 93, Subpart A, Sections 93.100 through 93.129, revised as of July 1, 200~~3~~4, except that Sections 93.102(c), 93.104(d), 93.104(e)(2), 93.105, 93.109(c)-(f), 93.118(e), 93.119(f)(3), 93.120(a)(2), 93.121(a)(1), and 93.124(b) are expressly omitted from the incorporation by reference. ~~*(3-20-04)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

200. PROCEDURES AND REQUIREMENTS FOR PERMITS TO CONSTRUCT.
The purposes of Sections 200 through 228 is to establish uniform procedures and requirements for the issuance of "Permits to Construct". As used throughout Sections 200 through 228 and 578 through 581, major facility shall be defined as major stationary source in 40 CFR 52.21(b), revised as of July 1, 200~~3~~4, ~~*and supplemented by 67 Fed. Reg. 80.186 (December 31, 2002) (to be codified at 40 CFR 52.21(b)),*~~ and major modification shall be defined as in 40 CFR 52.21(b), revised as of July 1, 200~~3~~4~~*, and supplemented by 67 Fed. Reg. 80.186 (December 31, 2002) (to be codified at 40 CFR 52.21(b))*~~. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr. ~~*(2-5-04)T*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

204. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN NONATTAINMENT AREAS.
New major facilities or major modifications proposed for location in a nonattainment area and which would be major for the nonattainment regulated air pollutant are considered nonattainment new source review (NSR) actions and are subject to the requirements in Section 204. Section 202 contains application requirements and Section 209 contains processing requirements for nonattainment NSR permitting actions. The intent of Section 204 is to incorporate the federal nonattainment NSR rule requirements. (2-5-04)T

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 51.165, revised as of July 1, 200~~3~~4, ~~*and supplemented by 68 Fed. Reg. 63.021 (November 7, 2003) (to be codified at 40 CFR 51.165),*~~ are hereby incorporated by reference. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 200~~3~~4, ~~*and supplemented by 67 Fed. Reg. 80.186 (December 31, 2002) and 68 Fed. Reg. 63.021 (November 7, 2003) (to be codified at 40 CFR 52.21),*~~ are hereby incorporated by

reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 51.165(a)(1)	Definitions
40 CFR 51.165(a)(2)(ii)(A) - (J)	Applicability Provisions
40 CFR 51.165(a)(6)(i) - (v)	Applicability Provisions
40 CFR 51.165(c)	Clean Unit Test for Emission Units that are Subject to LAER
40 CFR 51.165(d)	Clean Unit Provisions for Emission Units that Achieve an Emission Limitation Comparable to LAER
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements
40 CFR 52.21(aa)	Actual PALs

~~*(2-5-04)T*~~( )

02. Additional Requirements. The applicant must demonstrate to the satisfaction of the Department the following: (2-5-04)T

a. LAER. Except as otherwise provided in Section 204, the new major facility or major modification would be operated at the lowest achievable emission rate (LAER) for the nonattainment regulated air pollutant, specifically: (2-5-04)T

i. A new major facility would meet the lowest achievable emission rate at each new emissions unit which emits the nonattainment regulated air pollutant; and (4-5-00)

ii. A major modification would meet the lowest achievable emission rate at each new or modified emissions unit which has a net emissions increase of the nonattainment regulated air pollutant. (4-5-00)

b. Required offsets. Allowable emissions from the new major facility or major modification are offset by reductions in actual emissions from stationary sources, facilities, and/or mobile sources in the nonattainment area so as to represent reasonable further progress. All offsetting emission reductions must satisfy the requirements for emission reduction credits (Section 460) and provide for a net air quality benefit which satisfies the requirements of Section 208. If the offsets are provided by other stationary sources or facilities, a permit to construct shall not be issued for the new major facility or major modification until the offsetting reductions are made enforceable through the issuance of operating permits. The new major facility or major modification may not commence operation, and an operating permit for the new major facility or major modification shall not be effective before the date the offsetting reductions are achieved. (4-5-00)

c. Compliance status. All other sources in the State owned or operated by the applicant, or by any entity controlling, controlled by or under common control with such person, are in compliance with all applicable emission limitations and standards or subject to an enforceable compliance schedule. (5-1-94)

d. Effect on visibility. The effect on visibility of any federal Class I area, Class I area designated by the Department, or integral vista of a mandatory federal Class I area, by the new major facility or major modification is consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. Any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the criteria adopted pursuant to 40 CFR Part 51.304(a), may be exempted from Section 204 by the Department. (2-5-04)T

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 51.165 or 40 CFR 52.21 incorporated in Section 204, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (2-5-04)T

205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.
The prevention of significant deterioration (PSD) program is a construction permitting program for new major facilities and major modifications to existing major facilities located in areas in attainment or in areas that are unclassifiable for any criteria air pollutant. Section 202 contains application requirements and Section 209 contains processing requirements for PSD permit actions. The intent of Section 205 is to incorporate the federal PSD rule requirements. (2-5-04)T

01. Incorporated Federal Program Requirements. Requirements contained in the following subparts of 40 CFR 52.21, revised as of July 1, 200~~3~~4, ~~*and supplemented by 67 Fed. Reg. 80.186 (December 31, 2002) and 68 Fed. Reg. 63.021 (November 7, 2003) (to be codified at 40 CFR 52.21),*~~ are hereby incorporated by reference. These CFR sections have been codified in the electronic CFR which is available at www.gpoaccess.gov/ecfr.

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(a)(2)	Applicability Procedures
40 CFR 52.21(b)	Definitions
40 CFR 52.21(i)	Review of Major Stationary Sources and Major Modifications - Source Applicability and Exempting
40 CFR 52.21(j)	Control Technology Review
40 CFR 52.21(k)	Source Impact Analysis
40 CFR 52.21(r)	Source Obligation
40 CFR 52.21(v)	Innovative Control Technology
40 CFR 52.21(w)	Permit Rescission
40 CFR 52.21(x)	Clean Unit Test
40 CFR 52.21(y)	Clean Unit Provisions for Emissions Units that Achieve an Emission Limit Comparable to BACT
40 CFR 52.21(z)(1) - (3) and (6)	PCP Exclusion Procedural Requirements

40 CFR Reference	40 CFR Reference Title
40 CFR 52.21(aa)	Actual PALS

~~*(2-5-04)T*~~( )

02. Exception to Incorporation by Reference of 40 CFR 52.21. Every use of the word Administrator in 40 CFR 52.21 means the Department except for the following: (2-5-04)T

a. In 40 CFR 52.21(b)(17), the definition of federally enforceable, Administrator means the EPA Administrator. (2-5-04)T

b. In 40 CFR 52.21(l)(2), air quality models, Administrator means the EPA Administrator.(2-5-04)T

c. In 40 CFR 52.21(b)(43), permit program approved by the Administrator, Administrator means the EPA Administrator. (2-5-04)T

d. In 40 CFR 52.21(b)(48)(ii)(c), MACT standard that is proposed or promulgated by the Administrator, Administrator means the EPA Administrator. (2-5-04)T

e. In 40 CFR 52.21(b)(50)(i), regulated NSR pollutant as defined by Administrator, Administrator means the EPA Administrator. (2-5-04)T

f. In 40 CFR 52.21(y)(4)(i), Administrator for BACT, LAER and RACT clearinghouse means the EPA Administrator. (2-5-04)T

03. Nonmajor Requirements. If the proposed action meets the requirements of an exemption or exclusion under the provisions of 40 CFR 52.21 incorporated in Section 205, the nonmajor facility or stationary source permitting requirements of Sections 200 through 228 apply, including the exemptions in Sections 220 through 223. (2-5-04)T

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Vol. 04-8, pages 189 through 200. The Department of Environmental Quality (DEQ) held a public hearing in Boise, Coeur d'Alene, and Pocatello. DEQ received comments from the public. The proposed rule has been revised at Subsections 210.03.c.i. and 210.03.c.iv.(1). At Subsection 210.03.c.i., DEQ's proposal to remove the lower limitation on hardness dependent toxicity relations has been revised to keep the current 25 mg/l limit in place as the minimum hardness. At Subsection 210.03.c.iv.(1), the use of the Implementation Guidance for the Idaho Mercury Water Quality Criteria has been clarified. The remainder of the rule has been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The water quality criteria for toxic compounds are not broader in scope or more stringent than federal law or regulations, and do not regulate an activity not regulated by the federal government. Where changes in criteria have been made, the resulting criteria are no more stringent than EPA's current 2002 national recommendations. EPA currently has no guidance on implementation of its recommended fish tissue criterion for methylmercury.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

DATED this 18th day of November, 2004.

DEPARTMENT OF ENVIRONMENTAL QUALITY Docket No. 58-0102-0302
Water Quality Standards/Wastewater Treatment Requirements PENDING RULE

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this proposed rulemaking will be held as follows. The hearings will take place simultaneously and will be connected by telephone.

September 1, 2004, 3:00 p.m. PDT
Department of Environmental Quality, Large Conference Room
2110 Ironwood Parkway, Coeur d'Alene, Idaho

September 1, 2004, 4:00 p.m. MDT
Department of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho

September 1, 2004, 4:00 p.m. MDT
Department of Environmental Quality, Snake River Room
444 Hospital Way #300, Pocatello, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In June 2003, the Idaho Mining Association (IMA) filed a Petition for Initiation of Rulemaking to revise Idaho's mercury criteria in accordance with new EPA guidance released in November 2002. In October 2003, the Department of Environmental Quality (DEQ) initiated negotiated rulemaking to consider IMA's proposed revision and other updates to Idaho's metals criteria that are determined to be necessary and prudent. The text of the proposed rule was developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. All users of Idaho's waters, particularly dischargers of mercury and other metals, may be interested in commenting on this proposed rule.

Six human health criteria for 3 metals have been updated (Sb, Hg, & Zn), including a new fish tissue criterion for methylmercury, which necessitated that the committee and DEQ develop guidance on its implementation. Also updated are eleven aquatic life criteria for six metals (As, Cd, Cr III, Cr IV, Ni, and Zn). DEQ is also proposing to drop the low-end limit on hardness used in application of hardness dependent metals criteria, affecting Cd, Cr III, Cu, Pb, Ni, Ag and Zn criteria in waters with less than 25 mg/L hardness. These changes are

based on newer science and aquatic toxicity studies, and, in the case of human health, an updated EPA criteria development methodology. All proposed updates are per the new (2002) EPA recommendations, but not all EPA 2002 recommendations have been proposed for adoption in Idaho. Several of EPA's recommendations were set aside for future action.

The two aquatic life criteria for mercury are "reserved," meaning old existing criteria are removed and no new criteria proposed. Reservation of both the mercury aquatic life criteria is consistent with previous EPA action in promulgation of the California Toxics Rule. It does, however, depart from EPA's 2002 recommendations of 1.4 ug/L dissolved Hg as an acute criterion and 0.77 ug/L as a chronic criterion, which were incorporated in IMA's petition. It is also inconsistent with EPA's mercury criterion document, which calls into question the chronic criterion's adequacy for protecting some species of fish, but does not call into question the recommended acute criterion. DEQ is specifically seeking comment on reservation of the two aquatic life criteria for mercury, or the appropriateness of their adoption in Idaho.

EPA's 2002 recommendation on removing the low-end hardness limit implies that metals toxicity versus hardness relations remain linear and extend all the way to zero hardness. Though data exists that shows metals toxicity does continue to increase at hardness below 25 mg/L, down to 7-10 mg/L, DEQ knows of no data at even lower hardness, and is uncertain whether the hardness-toxicity relations remain linear. Therefore, DEQ is also specifically seeking comment and information on the removal of the low-end hardness limit.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. While not part of this rulemaking, DEQ is also seeking public comment on the Implementation Guidance for the Idaho Mercury Water Quality Criteria. The Implementation Guidance for the Idaho Mercury Water Quality Criteria and support documents for the criteria changes may be obtained at http://www.deq.state.id.us/rules/58-0102-0302_proposed.htm or by contacting Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in November 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: The water quality criteria for toxic compounds are not broader in scope or more stringent than federal law or regulations, and do not regulate an activity not regulated by the federal government. Where changes in criteria are proposed, the resulting criteria are no more stringent than EPA's current 2002 national recommendations. EPA currently has no guidance on implementation of its recommended fish tissue criterion for methylmercury.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on

discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 through 815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, October 1, 2003, Volume 03-10, page 585.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Essig at (208) 373-0119 or dessig@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before September 20, 2004. Comments on the Implementation Guidance for the Idaho Mercury Water Quality Criteria may also be submitted to the undersigned.

Dated this 30th day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418 / Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water supply use.

A			B Aquatic life		Human health for consumption of:	
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
1	Antimony	7440360			~~14~~ 5.6 l	~~4300~~ 640 l
2	Arsenic	7440382	~~360~~ 340 e	~~190~~ 150 e	50 d	50 d
3	Beryllium	7440417			h	h
4	Cadmium	7440439	~~3.7~~ 2 i	1.0 i	h	h
5a	Chromium III	16065831	~~550~~ 570 i	~~180~~ 74 i	h	h
5b	Chromium VI	18540299	~~15~~ 16 e	~~10~~ 11 e	h	h
6	Copper	7440508	17 i	11 i		
7	Lead	7439921	65 i	2.5 i	h	h
8a	Mercury	7439976	~~2.1~~ ~~e~~ g	~~0.012~~ ~~f~~g	~~0.14~~	~~0.15~~
8b	Methylmercury	22967926				0.3 mg/kg p
9	Nickel	7440020	~~1400~~ 470 i	~~160~~ 52 i	610 c	4600 c
10	Selenium	7782492	20 f	5 f	h	h
11	Silver	7440224	3.4 i			
12	Thallium	7440280			1.7 c	6.3 c
13	Zinc	7440666	~~114~~ 120 i	~~105~~ 120 i	7400	26000
14	Cyanide	57125	22 j	5.2 j	700 c	220000 c
15	Asbestos	1332214			7,000,000 fibers/L k	
16	2, 3, 7, 8-TCDD Dioxin	1746016			0.000000013 l	0.000000014 l
17	Acrolein	107028			320	780
18	Acrylonitrile	107131			0.059 cl	0.66 cl
19	Benzene	71432			1.2 cl	71 cl
20	Bromoform	75252			4.3 cl	360 cl
21	Carbon Tetrachloride	56235			0.25 cl	4.4 cl

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
22	Chlorobenzene	108907			680	c	21000	c
23	Chlorodibromomethane	124481			0.41	cl	34	cl
24	Chloroethane	75003						
25	2-Chloroethylvinyl Ether	110758						
26	Chloroform	67663			5.7	cl	470	cl
27	Dichlorobromomethane	75274			0.27	cl	22	cl
28	1,1-Dichloroethane	75343						
29	1,2-Dichloroethane	107062			0.38	cl	99	cl
30	1,1-Dichloroethylene	75354			0.057	cl	3.2	cl
31	1,2-Dichloropropane	78875						
32	1,3-Dichloropropylene	542756			10	c	1700	c
33	Ethylbenzene	100414			3100	c	29000	c
34	Methyl Bromide	74839			48	c	4000	c
35	Methyl Chloride	74873				h		h
36	Methylene Chloride	75092			4.7	cl	1600	cl
37	1,1,2,2-Tetrachloroethane	79345			0.17	cl	11	cl
38	Tetrachloroethylene	127184			0.8	l	8.85	l
39	Toluene	108883			6800	c	200000	c
40	1,2-Trans-Dichloroethylene	156605						
41	1,1,1-Trichloroethane	71556				h		h
42	1,1,2-Trichloroethane	79005			0.6	cl	42	cl
43	Trichloroethylene	79016			2.7	l	81	l
44	Vinyl Chloride	75014			2	l	525	l
45	2-Chlorophenol	95578						
46	2,4-Dichlorophenol	120832			93	c	790	c
47	2,4-Dimethylphenol	105679						
48	2-Methyl-4,6-Dinitrophenol	534521			13.4		765	
49	2,4-Dinitrophenol	51285			70	c	14000	c

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1		[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
50	2-Nitrophenol	88755							
51	4-Nitrophenol	100027							
52	3-Methyl-4-Chlorophenol	59507							
53	Pentachlorophenol	87865	20	m	13 m	0.28	cl	8.2	cl
54	Phenol	108952				21000	c	4600000	c
55	2,4,6-Trichlorophenol	88062				2.1	cl	6.5	cl
56	Acenaphthene	83329							
57	Acenaphthylene	208968							
58	Anthracene	120127				9600	c	110000	c
59	Benzidine	92875				0.00012	cl	0.00054	cl
60	Benzo(a)Anthracene	56553				0.0028	l	0.031	l
61	Benzo(a)Pyrene	50328				0.0028	l	0.031	l
62	Benzo(b)Fluoranthene	205992				0.0028	l	0.031	l
63	Benzo(ghi)Perylene	191242							
64	Benzo(k)Fluoranthene	207089				0.0028	l	0.031	l
65	Bis(2-Chloroethoxy) Methane	111911							
66	Bis(2-Chloroethyl)Ether	111444				0.031	cl	1.4	cl
67	Bis(2-Chloroisopropyl) Ether	108601				1400	c	170000	c
68	Bis(2-Ethylhexyl) Phthalate	117817				1.8	cl	5.9	cl
69	4-Bromophenyl Phenyl Ether	101553							
70	Butylbenzyl Phthalate	85687							
71	2-Chloronaphthalene	91587							
72	4-Chlorophenyl Phenyl Ether	7005723							
73	Chrysene	218019				0.0028	l	0.031	l
74	Dibenzoa,hAnthracene	53703				0.0028	l	0.031	l
75	1,2-Dichlorobenzene	95501				2700	c	17000	c

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
76	1,3-Dichlorobenzene	541731			400		2600	
77	1,4-Dichlorobenzene	106467			400		2600	
78	3,3'-Dichlorobenzidine	91941			0.04	cl	0.077	cl
79	Diethyl Phthalate	84662			23000	c	120000	c
80	Dimethyl Phthalate	131113			313000		2900000	
81	Di-n-Butyl Phthalate	84742			2700	c	12000	c
82	2,4-Dinitrotoluene	121142			0.11	l	9.1	l
83	2,6-Dinitrotoluene	606202						
84	Di-n-Octyl Phthalate	117840						
85	1,2-Diphenylhydrazine	122667			0.040	cl	0.54	cl
86	Fluoranthene	206440			300	c	370	c
87	Fluorene	86737			1300	c	14000	c
88	Hexachlorobenzene	118741			0.00075	cl	0.00077	cl
89	Hexachlorobutadiene	87683			0.44	cl	50	cl
90	Hexachloro-cyclopentadiene	77474			240	c	17000	c
91	Hexachloroethane	67721			1.9	cl	8.9	cl
92	Ideno (1,2,3-cd) Pyrene	193395			0.0028	l	0.031	l
93	Isophorone	78591			8.4	cl	600	cl
94	Naphthalene	91203						
95	Nitrobenzene	98953			17	c	1900	c
96	N-Nitrosodimethylamine	62759			0.00069	cl	8.1	cl
97	N-Nitrosodi-n-Propylamine	621647						
98	N-Nitrosodiphenylamine	86306			5.0	cl	16	cl
99	Phenanthrene	85018						
100	Pyrene	129000			960	c	11000	c
101	1,2,4-Trichlorobenzene	120821						
102	Aldrin	309002	3		0.00013	cl	0.00014	cl
103	alpha-BHC	319846			0.0039	cl	0.013	cl

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
104	beta-BHC	319857			0.014	cl	0.046	cl
105	gamma-BHC (Lindane)	58899	2	0.08	0.019	l	0.063	l
106	delta-BHC	319868						
107	Chlordane	57749	2.4	0.0043	0.00057	cl	0.00059	cl
108	4,4'-DDT	50293	1.1	0.001	0.00059	cl	0.00059	cl
109	4,4'-DDE	72559			0.00059	cl	0.00059	cl
110	4,4'-DDD	72548			0.00083	cl	0.00084	cl
111	Dieldrin	60571	2.5	0.0019	0.00014	cl	0.00014	cl
112	alpha-Endosulfan	959988	0.22	0.056	0.93	c	2.0	c
113	beta-Endosulfan	33213659	0.22	0.056	0.93	c	2.0	c
114	Endosulfan Sulfate	1031078			0.93	c	2.0	c
115	Endrin	72208	0.18	0.0023	0.76	c	0.81	c
116	Endrin Aldehyde	7421934			0.76	c	0.81	c
117	Heptachlor	76448	0.52	0.0038	0.00021	cl	0.00021	cl
118	Heptachlor Epoxide	1024573	0.52	0.0038	0.00010	cl	0.00011	cl
119	Polychlorinated Biphenyls PCBs:	n		0.014 n	0.00017	o	0.00017	o
120	Toxaphene	8001352	0.73	0.0002	0.00073	cl	0.00075	cl
121	Chlorine		19 k	11 k				

Note to table: Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.

Table Footnotes

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. See Definitions, Section 003 of these rules.

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of December 22, 1992. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.					
d. Inorganic form only. The criterion for arsenic is the MCL in effect as of April 5, 2000.					
e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.					
f. Criterion expressed as total recoverable (unfiltered) concentrations.					
g. ~~*If the CCC for total mercury is exceeded more than once in a three (3) year period in ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (one (1.0) mg/kg). If the FDA action level is exceeded, the Director must notify the EPA regional administrator, initiate a review and as appropriate, revision of its mercury criterion in these water quality standards, and take other appropriate action such as the issuance of fish consumption advisory for the affected area.*~~ No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.					
h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.					
i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.~~b~~c.iii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					
j. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
k. Total chlorine residual concentrations.					
l. This criterion is based on carcinogenicity of 10–6 risk.					
m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)					
n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).					

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
p. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: TRC = [BW x {RfD – (RSCxRfD)}] / Σ TL. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.					

~~*(2-5-04)T*~~( )

02. Factors for Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a. CMC=WER exp{mA[ln(hardness)]+bA} X Acute Conversion Factor. (5-3-03)

b. CCC=WER exp{mc[ln(hardness)]+bc} X Chronic Conversion Factor.

Metal	m_A	b_A	m_c	b_c	[a]Acute Conversion Factor	[a]Chronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	~~*1.128*~~ 1.0166	~~*-3.828*~~ -3.924	0.7852	-3.490	0.944	0.909
Chromium (III)	0.819	~~*3.688*~~ 3.7256	0.8190	~~*1.561*~~ 0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	~~b~~ 0.85
Nickel	0.846	~~*3.3612*~~ 2.255	0.8460	~~*1.1645*~~ 0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	~~*0.8604*~~ 0.884	0.8473	~~*0.7614*~~ 0.884	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium

Acute: CF=1.136672–[(ln hardness)(0.041838)]

Chronic: CF=1.101672–[(ln hardness)(0.041838)]

Lead (Acute and Chronic): CF=1.46203–[(ln hardness)(0.145712)

b. Not applicable

c. No chronic criteria are available for silver.

~~*(2-5-04)T*~~( )

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

a. For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone of the mixing zones; otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. (5-3-03)

b. Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams due to permitted discharges when flows are less than the following values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(5-3-03)

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized

method (DFLOW model); (5-3-03)

v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. ~~*(5-3-03)*~~( )

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC5O) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC5O) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be

approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (10-24-03)T

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. ( )

(1) The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" describes in detail *suggested methods for* discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, *will provide assistance to the Department and the public* when implementing the methylmercury criterion. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, *and www.deq.idaho.gov.* ( )

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. ( )

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993. (4-5-00)

b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993. (4-5-00)

c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993. (4-5-00)

d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994. (4-5-00)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (4-5-00)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of six point five (6.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of 106 shall be utilized. (4-5-00)

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0303

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: The amendments to the temporary rule were effective February 5, 2004. This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Idaho Code Sections 67-5224 and 67-5226, notice is hereby given that the Board has adopted a pending rule and amended a previously adopted temporary rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to correct errors found in Section 210. Those areas that have been identified for correction include cross-reference citations, the domestic supply use criteria for chlordane in Subsection 210.01, and the conversion factor for cadmium in Subsection 210.02. In addition, this rulemaking will include the addition of omitted dissolved total conversion factors for chromium (VI) and mercury in Subsection 210.02.

In October 2003 the Board adopted the rule as a temporary rule. In December 2003, the Department of Environmental Quality (DEQ) published the temporary/proposed rule, inviting the public to comment on the rule. Idaho Administrative Bulletin, December 3, 2003, Volume 03-12, pages 130 through 139. No public comments were received; however, additional corrections have been made to the tables found at Subsections 210.01.c. and 210.02.b. for consistency with the National Toxics Rule. The 210.01.c. table was revised by restoring the selenium acute criterion (CMC) to 20 µg/l as a total recoverable concentration and by adding a reference to footnote "f". In addition, a correction has been made to a citation found in footnote "e". The 210.02.b. table was revised by removing the conversion factor for selenium criteria because it is no longer necessary. The need for these corrections was discovered by DEQ after adoption of the temporary rule. The rulemaking record, which contains a detailed explanation for these changes, can be obtained by contacting the undersigned.

SECTION 39-107D, IDAHO CODE STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit its web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Don Essig at (208)373-0502, dessig@deq.state.id.us.

Dated this 5th day of February, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective October 24, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before December 17, 2003. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to correct errors found in Section 210. Those areas that have been identified for correction include cross-reference citations, the domestic supply use criteria for chlordane in Subsection 210.01, and the conversion factor for cadmium in Subsection 210.02. In addition, this rulemaking will include the addition of omitted dissolved total conversion factors for chromium (VI) and mercury in Subsection 210.02.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the spring of 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is necessary to protect public health.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit

DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before December 31, 2003.

DATED this 24th day of October, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office
1410 N. Hilton, Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria For Toxic Substances. The criteria of Section 210 apply to surface waters of the state as follows. (5-3-03)

a. Columns B1, B2, and C2 of the following table apply to waters designated for aquatic life use. (5-3-03)

b. Column C2 of the following table applies to waters designated for recreation use. (5-3-03)

c. Column C1 of the following table applies to waters designated for domestic water supply use.

A			B Aquatic life		Human health for consumption of:	
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
1	Antimony	7440360			14 l	4300 l
2	Arsenic	7440382	360 e	190 e	50 d	50 d
3	Beryllium	7440417			h	h
4	Cadmium	7440439	3.7 i	1.0 i	h	h
5a	Chromium III	16065831	550 i	180 i	h	h
5b	Chromium VI	18540299	15 e	10 e	h	h
6	Copper	7440508	17 i	11 i		
7	Lead	7439921	65 i	2.5 i	h	h
8	Mercury	7439976	2.1 e	0.012 fg	0.14	0.15
9	Nickel	7440020	1400 i	160 i	610 c	4600 c
10	Selenium	7782492	~~18~~20 f	5 f	h	h
11	Silver	7440224	3.4 i			
12	Thallium	7440280			1.7 c	6.3 c
13	Zinc	7440666	114 i	105 i		
14	Cyanide	57125	22 j	5.2 j	700 c	220000 c
15	Asbestos	1332214			7,000,000 fibers/L k	
16	2, 3, 7, 8-TCDD Dioxin	1746016			0.000000013 l	0.000000014 l
17	Acrolein	107028			320	780
18	Acrylonitrile	107131			0.059 cl	0.66 cl
19	Benzene	71432			1.2 cl	71 cl
20	Bromoform	75252			4.3 cl	360 cl
21	Carbon Tetrachloride	56235			0.25 cl	4.4 cl
22	Chlorobenzene	108907			680 c	21000 c
23	Chlorodibromomethane	124481			0.41 cl	34 cl
24	Chloroethane	75003				
25	2-Chloroethylvinyl Ether	110758				
26	Chloroform	67663			5.7 cl	470 cl
27	Dichlorobromomethane	75274			0.27 cl	22 cl

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1		[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2	
28	1,1-Dichloroethane	75343						
29	1,2-Dichloroethane	107062				0.38 cl	99	cl
30	1,1-Dichloroethylene	75354				0.057 cl	3.2	cl
31	1,2-Dichloropropane	78875						
32	1,3-Dichloropropylene	542756				10 c	1700	c
33	Ethylbenzene	100414				3100 c	29000	c
34	Methyl Bromide	74839				48 c	4000	c
35	Methyl Chloride	74873				h		h
36	Methylene Chloride	75092				4.7 cl	1600	cl
37	1,1,2,2-Tetrachloroethane	79345				0.17 cl	11	cl
38	Tetrachloroethylene	127184				0.8 l	8.85	l
39	Toluene	108883				6800 c	200000	c
40	1,2-Trans-Dichloroethylene	156605						
41	1,1,1-Trichloroethane	71556				h		h
42	1,1,2-Trichloroethane	79005				0.6 cl	42	cl
43	Trichloroethylene	79016				2.7 l	81	l
44	Vinyl Chloride	75014				2 l	525	l
45	2-Chlorophenol	95578						
46	2,4-Dichlorophenol	120832				93 c	790	c
47	2,4-Dimethylphenol	105679						
48	2-Methyl-4,6-Dinitrophenol	534521				13.4	765	
49	2,4-Dinitrophenol	51285				70 c	14000	c
50	2-Nitrophenol	88755						
51	4-Nitrophenol	100027						
52	3-Methyl-4-Chlorophenol	59507						
53	Pentachlorophenol	87865	20	m	13 m	0.28 cl	8.2	cl
54	Phenol	108952				21000 c	4600000	c
55	2,4,6-Trichlorophenol	88062				2.1 cl	6.5	cl

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
56	Acenaphthene	83329						
57	Acenaphthylene	208968						
58	Anthracene	120127			9600	c	110000	c
59	Benzidine	92875			0.00012	cl	0.00054	cl
60	Benzo(a)Anthracene	56553			0.0028	l	0.031	l
61	Benzo(a)Pyrene	50328			0.0028	l	0.031	l
62	Benzo(b)Fluoranthene	205992			0.0028	l	0.031	l
63	Benzo(ghi)Perylene	191242						
64	Benzo(k)Fluoranthene	207089			0.0028	l	0.031	l
65	Bis(2-Chloroethoxy) Methane	111911						
66	Bis(2-Chloroethyl)Ether	111444			0.031	cl	1.4	cl
67	Bis(2-Chloroisopropyl) Ether	108601			1400	c	170000	c
68	Bis(2-Ethylhexyl) Phthalate	117817			1.8	cl	5.9	cl
69	4-Bromophenyl Phenyl Ether	101553						
70	Butylbenzyl Phthalate	85687						
71	2-Chloronaphthalene	91587						
72	4-Chlorophenyl Phenyl Ether	7005723						
73	Chrysene	218019			0.0028	l	0.031	l
74	Dibenzoa,hAnthracene	53703			0.0028	l	0.031	l
75	1,2-Dichlorobenzene	95501			2700	c	17000	c
76	1,3-Dichlorobenzene	541731			400		2600	
77	1,4-Dichlorobenzene	106467			400		2600	
78	3,3'-Dichlorobenzidine	91941			0.04	cl	0.077	cl
79	Diethyl Phthalate	84662			23000	c	120000	c
80	Dimethyl Phthalate	131113			313000		2900000	
81	Di-n-Butyl Phthalate	84742			2700	c	12000	c
82	2,4-Dinitrotoluene	121142			0.11	l	9.1	l

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
83	2,6-Dinitrotoluene	606202						
84	Di-n-Octyl Phthalate	117840						
85	1,2-Diphenylhydrazine	122667			0.040	cl	0.54	cl
86	Fluoranthene	206440			300	c	370	c
87	Fluorene	86737			1300	c	14000	c
88	Hexachlorobenzene	118741			0.00075	cl	0.00077	cl
89	Hexachlorobutadiene	87683			0.44	cl	50	cl
90	Hexachloro-cyclopentadiene	77474			240	c	17000	c
91	Hexachloroethane	67721			1.9	cl	8.9	cl
92	Ideno (1,2,3-cd) Pyrene	193395			0.0028	l	0.031	l
93	Isophorone	78591			8.4	cl	600	cl
94	Naphthalene	91203						
95	Nitrobenzene	98953			17	c	1900	c
96	N-Nitrosodimethylamine	62759			0.00069	cl	8.1	cl
97	N-Nitrosodi-n-Propylamine	621647						
98	N-Nitrosodiphenylamine	86306			5.0	cl	16	cl
99	Phenanthrene	85018						
100	Pyrene	129000			960	c	11000	c
101	1,2,4-Trichlorobenzene	120821						
102	Aldrin	309002	3		0.00013	cl	0.00014	cl
103	alpha-BHC	319846			0.0039	cl	0.013	cl
104	beta-BHC	319857			0.014	cl	0.046	cl
105	gamma-BHC (Lindane)	58899	2	0.08	0.019	l	0.063	l
106	delta-BHC	319868						
107	Chlordane	57749	2.4	0.0043	0.00057	cl	0.00059	cl
108	4,4'-DDT	50293	1.1	0.001	0.00059	cl	0.00059	cl

A			B Aquatic life		Human health for consumption of:			
(Number) Compound		[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1		Organisms only (µg/L) C2	
109	4,4'-DDE	72559			0.00059	cl	0.00059	cl
110	4,4'-DDD	72548			0.00083	cl	0.00084	cl
111	Dieldrin	60571	2.5	0.0019	0.00014	cl	0.00014	cl
112	alpha-Endosulfan	959988	0.22	0.056	0.93	c	2.0	c
113	beta-Endosulfan	33213659	0.22	0.056	0.93	c	2.0	c
114	Endosulfan Sulfate	1031078			0.93	c	2.0	c
115	Endrin	72208	0.18	0.0023	0.76	c	0.81	c
116	Endrin Aldehyde	7421934			0.76	c	0.81	c
117	Heptachlor	76448	0.52	0.0038	0.00021	cl	0.00021	cl
118	Heptachlor Epoxide	1024573	0.52	0.0038	0.00010	cl	0.00011	cl
119	Polychlorinated Biphenyls PCBs:	n		0.014 n	0.00017	o	0.00017	o
120	Toxaphene	8001352	0.73	0.0002	0.00073	cl	0.00075	cl
121	Chlorine		19 k	11 k				

Note to table: Table values are from 57 FR 60910, December 22, 1992 (National Toxics Rule) except as noted.
Table Footnotes

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. See Definitions, Section 003 of these rules.

c. This criterion has been revised to reflect The Environmental Protection Agency's q1* or RfD, as contained in the Integrated Risk Information System (IRIS) as of December 22, 1992. The fish tissue bioconcentration factor (BCF) from the 1980 Ambient Water Quality Criteria document was retained in each case.

d. Inorganic form only. The criterion for arsenic is the MCL in effect as of April 5, 2000.

e. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.~~b~~c.iii. CMC = column B1 value X WER. CCC = column B2 value X WER.

f. Criterion expressed as total recoverable (unfiltered) concentrations.

A		B Aquatic life		Human health for consumption of:	
(Number) Compound	[a] CAS Number	[b] CMC (µg/L) B1	[b] CCC (µg/L) B2	Water & organisms (µg/L) C1	Organisms only (µg/L) C2
g. If the CCC for total mercury is exceeded more than once in a three (3) year period in ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (one (1.0) mg/kg). If the FDA action level is exceeded, the Director must notify the EPA regional administrator, initiate a review and as appropriate, revision of its mercury criterion in these water quality standards, and take other appropriate action such as the issuance of fish consumption advisory for the affected area.					
h. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.					
i. Aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.b.ii and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).					
j. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
k. Total chlorine residual concentrations.					
l. This criterion is based on carcinogenicity of 10^{-6} risk.					
m. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)					
n. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
o. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).					

~~*(5-3-03)*~~(10-24-03)T

02. Factors For Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a. CMC=WER exp{mA[ln(hardness)]+bA} X Acute Conversion Factor. (5-3-03)

b. CCC=WER exp{mc[ln(hardness)]+bc} X Chronic Conversion Factor.

Metal	m_A	b_A	m_C	b_C	[a]Acute Converson Factor	[a]Chronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0

Cadmium	1.12~~2~~8	-3.828	0.7852	-3.490	0.944	0.909
Chromium (III)	0.819	3.688	0.8190	1.561	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Copper	0.9422	-1.464	0.8545	-1.465	0.960	0.960
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	b
Nickel	0.846	3.3612	0.8460	1.1645	0.998	0.997
~~*Selenium*~~	~~*b*~~	~~*b*~~	~~*b*~~	~~*b*~~	~~*0.922*~~	~~*b*~~
Silver	1.72	-6.52	c	c	0.85	c
Zinc	0.8473	0.8604	0.8473	0.7614	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table.

Cadmium
Acute: CF=1.136672–[(ln hardness)(0.041838)]
Chronic: CF=1.101672–[(ln hardness)(0.041838)]
Lead (Acute and Chronic): CF=1.46203–[(ln hardness)(0.145712)

b. Not applicable

c. No chronic criteria are available for silver.

~~*(5-3-03)*~~(10-24-03)T

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications including mixing zones, and low flow design discharge conditions below which numeric standards can be exceeded in flowing waters. (5-3-03)

a. For all waters for which the Department has determined mixing zones to be applicable, the criteria apply at the appropriate locations specified within or at the boundary of the mixing zone of the mixing zones; otherwise the criteria apply through the waterbody including at the end of any discharge pipe, canal or other discharge point. (5-3-03)

b. Low flow design discharge conditions. Numeric chemical standards can only be exceeded in perennial streams due to permitted discharges when flows are less than the following values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	30Q5
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(5-3-03)

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedence of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedence for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

v. Where "30Q5" is the lowest average thirty (30) consecutive day low flow with an average recurrence frequency of once in five (5) years determined hydrologically; and (5-3-03)

vi. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of metals criteria. (5-3-03)

i. For purposes of calculating aquatic life criteria for metals from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (5-3-03)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (compounds #1 through #13 in the criteria table of Subsection 210.02) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes e. and i. in the criteria table in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge

conditions established in Subsection 210.03.b. For purposes of ~~*Subsection 210.03.c.iii.*~~ calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC5O) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC5O) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of ~~*Subsection 210.03.c.iii.*~~ calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.~~*b*~~c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. ~~*(5-3-03)*~~(10-24-03)T

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule. (5-3-03)

a. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993. (4-5-00)

b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993. (4-5-00)

c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993. (4-5-00)

d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994. (4-5-00)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (4-5-00)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health, a fish consumption rate of six point five (6.5) grams/day, a water ingestion rate of two (2) liters/day and a cancer risk level of 106 shall be utilized. (4-5-00)

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: In November 2003 this rule was adopted by the Board as a temporary rule and is currently effective.

A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, January 7, 2004 Volume 04-1, pages 225 and 226. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE, SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning the proposed rulemaking, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

Dated this 11th day of March, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective November 14, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the

DEPARTMENT OF ENVIROMENTAL QUALITY ***Docket No. 58-0102-0401***
Water Quality Standards/Wastewater Treatment ***PENDING RULE***

Department of Environmental Quality is commencing proposed rulemaking to promulgate a final rule. The action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before January 23, 2004. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to update the Idaho Water Quality Standards to be consistent with the Snake River Hell's Canyon TMDL temperature and regional temperature criteria guidance. This temporary/proposed rule revises the salmonid spawning and incubation temperature criteria to 13°C as a maximum weekly maximum temperature.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

SECTION 39-107D, IDAHO CODE, STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal law or regulations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit and is necessary to comply with federal deadlines.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the temporary rulemaking schedule did not allow for the timing of it.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rulemaking, contact Don Essig at (208)373-0502 or dessig@deq.state.id.us.

Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before February 6, 2004.

DATED this 14th day of November, 2003.

Paula J. Gradwohl
Environmental Quality Section
Attorney General's Office

1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pgradwoh@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

286. SNAKE RIVER, SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3; SITE-SPECIFIC CRITERIA FOR WATER TEMPERATURE.
A maximum weekly maximum temperature of thirteen degrees C (13C) to protect fall chinook spawning and incubation applies from October 23rd through April 15th in the Snake River from Hell's Canyon Dam to the Salmon River. (11-14-03)T

28~~6~~7. -- 299. (RESERVED).

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Vol. 04-7, pages 92 through 111. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rulemaking removes a rule which regulates an activity not regulated by the federal government.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Chris Lavelle at (208)373-0502 or clavelle@deq.state.id.us.

DATED this 18th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing

will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: This proposed rule implements the provisions of the Drinking Water and Wastewater Professionals Licensing Act, Senate Bill 1279, wherein the Legislature transferred authority for the licensure of drinking water and wastewater operators from the Department of Environmental Quality to a Governor appointed Drinking Water and Wastewater Professional Board and the Idaho Bureau of Occupational Licenses. This rulemaking will delete Sections 405, 406, 407, 408, 409, 411, 412, 413 and some definitions that include requirements for mandatory wastewater operator certification. Sections 403, 404, 410, and some definitions, which pertain to wastewater treatment and collection system certification and classification, will be retained and modified as necessary.

Wastewater operators, operator trainers, Association of Idaho Cities, Association of Idaho Counties, Pacific Northwest Clean Water Association, water and sewer districts, wastewater treatment system and collection system owners, wastewater permit holders, wastewater permit programs, special interest groups, and the general public may be interested in commenting on this proposed rule.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Nancy Bowser at (208) 373-0406 or nbowser@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 2nd day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

003. DEFINITIONS.
For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," the following definitions apply: (4-5-00)

01. Acute. Involving a stimulus severe enough to rapidly induce a response; in aquatic toxicity tests, a response measuring lethality observed in ninety-six (96) hours or less is typically considered acute. When referring to human health, an acute effect is not always measured in terms of lethality. (3-20-97)

02. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. Acute criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "acute criteria" and "criterion maximum concentration" (CMC) are equivalent. (3-15-02)

03. Acute Toxicity. The existence of mortality or injury to aquatic organisms resulting from a single or short-term (i.e., ninety-six (96) hours or less) exposure to a substance. As applied to toxicity tests, acute toxicity refers to the response of aquatic test organisms to a concentration of a toxic substance or effluent which results in a LC-50. (3-20-97)

0~~6~~4. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

05. Available. Based on public wastewater system size, complexity, and variation in raw waste, a ~~*certified*~~ licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. ~~*(4-2-03)*~~( )

0~~7~~6. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the department will determine where background conditions should be

measured. (8-24-94)

0~~8~~7. Basin Advisory Group. No less than one advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director shall reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

0~~7~~8. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

09. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

10. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

11. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (8-24-94)

12. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

13. Board. The Idaho Board of Environmental Quality. (7-1-93)

~~***14. Certificate**. Documentation of competency issued by the Director stating that the person to be certified has met requirements for a specific classification of the public wastewater operator certification program.* (4-2-03)~~

1~~5~~4. Chronic. Involving a stimulus that lingers or continues for a relatively long period of time, often one-tenth (.01) of the life span or more. Chronic should be considered a relative

term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality. (8-24-94)

1~~6~~5. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. Chronic criteria will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "chronic criteria" and "criterion continuous concentration" (CCC) are equivalent. (3-15-02)

1~~7~~6. Chronic Toxicity. The existence of mortality, injury, reduced growth, impaired reproduction, or any other adverse effect on aquatic organisms resulting from a long-term (i.e., one-tenth (0.1) or more of the organism's life span) exposure to a substance. As applied to toxicity tests, chronic toxicity refers to the response of aquatic organisms to a concentration of a toxic substance or effluent which results in an IC-25. (8-24-94)

17. Collection System. That portion of the wastewater system in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtences. ( )

18. Compliance Schedule Or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

~~***19. Continuing Education Unit (CEU)**. An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria.* ***(4-2-03)***~~

~~*20~~19. Criterion Continuous Concentration (CCC). Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity resulting from exposure to the toxic substance or effluent. The CCC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "criterion continuous concentration" and "chronic criteria" are equivalent. (3-15-02)

2~~1~~0. Criterion Maximum Concentration (CMC). Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity resulting from exposure to the toxic substance or effluent. The CMC will adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. The terms "criterion maximum concentration" and "acute criteria" are equivalent. (3-15-02)

2~~2~~1. Daily Mean. The average of at least two (2) appropriately spaced measurements, acceptable to the department, calculated over a period of one (1) day: (3-20-97)

a. Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

2~~3~~2. **Deleterious Material**. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

2~~4~~3. **Department**. The Idaho Department of Environmental Quality. (7-1-93)

2~~5~~4. **Design Flow**. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

2~~6~~5. **Designated Agency**. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department's division of environmental quality for all other activities. (3-20-97)

2~~7~~6. **Designated Beneficial Use Or Designated Use**. Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Sections 110 through 160, whether or not the uses are being attained. (4-5-00)

2~~8~~7. **Desirable Species**. Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

2~~9~~8. **Director**. The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

~~30~~29. **Discharge**. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (8-24-94)

3~~1~~0. **Disinfection**. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (7-1-93)

3~~2~~1. **Dissolved Oxygen (DO)**. The measure of the amount of oxygen dissolved in the water, usually expressed in mg/1. (7-1-93)

3~~3~~2. **Dissolved Product**. Petroleum product constituents found in solution with water. (8-24-94)

3~~4~~3. Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

3~~5~~4. E. coli (Escherichia coli). A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)

3~~6~~5. Effluent. Any wastewater discharged from a treatment facility. (7-1-93)

3~~7~~6. Effluent Biomonitoring. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)

3~~8~~7. EPA. The United States Environmental Protection Agency. (7-1-93)

3~~9~~8. Ephemeral Waters. A stream, reach, or water body that flows only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-5-00)

***4~~0~~*39. Existing Beneficial Use Or Existing Use**. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". (8-24-94)

4~~1~~0. Facility. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)

4~~2~~1. Fecal Coliform. The portion of the coliform group of bacteria present in the gut and feces of warm-blooded animals, usually expressed as number of organisms/one hundred (100) ml of sample. (7-1-93)

4~~3~~2. Four Day Average. The mean of the twenty-four (24) hour average values calculated over a period of ninety-six (96) consecutive hours. (3-20-97)

4~~4~~3. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

4~~5~~4. Full Protection, Full Support, Or Full Maintenance Of Designated Beneficial Uses Of Water. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)

4~~6~~5. Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the

product of the quantities. (7-1-93)

4~~7~~6. Ground Water. Subsurface water comprising the zone of saturation. (8-24-94)

4~~8~~7. Harmonic Mean Flow. The number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). (8-24-94)

4~~9~~8. Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)

***5~~0~~*~~4~~9. Hydrologic Unit Code (HUC)**. A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

5~~1~~0. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one or more excursions below the design flow can occur. (8-24-94)

5~~2~~1. Hypolimnion. The deepest zone in a thermally-stratified body of water. It is fairly uniform in temperature and lies beneath a zone of water which exhibits a rapid temperature drop with depth of at least one (1) degree C per meter. (3-20-97)

5~~3~~2. Inhibition Concentration-25 (IC-25). A point estimate of the toxicant concentration that would cause a twenty-five percent (25%) reduction in a non-lethal biological measurement of the test organisms, such as reproduction or growth. Determined using curve fitting with an assumption of a continuous dose-response relationship. An IC-25 is approximately the analogue of NOEC. (8-24-94)

5~~4~~3. Instantaneous Concentration. A concentration of a substance measured at any moment (instant) in time. (8-24-94)

5~~5~~4. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

5~~6~~5. Intermittent Waters. A stream, reach, or water body which has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based flow of less than one-tenth (0.1) cfs is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-5-00)

5~~7~~6. Land Application. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (8-24-94)

5~~8~~7. LC-50. The toxicant concentration killing fifty percent (50%) of exposed organisms at a specific time of observation (e.g., ninety-six (96) hours). (3-20-97)

58. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ( )

59. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

60. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

61. Lower Water Quality. A measurable adverse change in a chemical, physical, or biological parameter of water relevant to a beneficial use, and which can be expressed numerically. Measurable change is determined by a statistically significant difference between sample means using standard methods for analysis and statistical interpretation appropriate to the parameter. Statistical significance is defined as the ninety-five percent (95%) confidence limit when significance is not otherwise defined for the parameter in standard methods or practices. (3-20-97)

62. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxicant or an effluent that results in observable adverse effects in the aquatic test population. (8-24-94)

63. Man-Made Waterways. Canals, flumes, ditches, and similar features, constructed for the purpose of water conveyance. (7-1-93)

64. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period. The MWMT is the single highest WMT that occurs during a given year. (3-15-02)

65. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

66. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

67. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

68. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (3-15-02)

69. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

70. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

a. Irrigated and nonirrigated lands used for: (7-1-93)

i. Grazing; (7-1-93)

ii. Crop production; (7-1-93)

iii. Silviculture; (7-1-93)

b. Log storage or rafting; (7-1-93)

c. Construction sites; (7-1-93)

d. Recreation sites; (3-20-97)

e. Septic tank disposal fields. (8-24-94)

f. Mining; (3-20-97)

g. Runoff from storms or other weather related events; and (3-20-97)

h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

71. No Observed Adverse Effect Level (NOAEL). A threshold dose of a toxic substance or an effluent below which no adverse biological effects are observed, as identified from chronic or subchronic human epidemiology studies or animal exposure studies. (8-24-94)

72. No Observed Effect Concentration (NOEC). The highest concentration of a toxic substance or an effluent at which no adverse effects are observed on the aquatic test organisms. Determined using hypothesis testing with the assumption of a noncontinuous threshold model of the dose-response relationship. (8-24-94)

73. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

74. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

75. One Day Minimum. The lowest daily instantaneous value measured. (3-20-97)

76. One Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

77. Operating ~~*Experience*~~ Personnel. ~~*The number of years spent in performance of duties at a*~~ Any person who is employed, retained, or appointed to make system control or system integrity decisions about water quantity or water quality that may affect public health as part of the tasks conducted with the day-to-day operation and maintenance of a public wastewater system. ~~*(4-2-03)*~~( )

78. Operator. For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

~~***79. Operator Certifying Entity.*** *An organization that contracts with the Department to provide public wastewater operator certification services.* *(4-2-03)*~~

***~~80~~*79. Outstanding Resource Water (ORW)**. A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

8~~1~~0. Outstanding Resource Water Mixing Zone. An area or volume of an ORW where pollutants are allowed to mix with the ORW receiving water at a location distinct from the sampling point where compliance with ORW quality standards is measured. An ORW mixing zone will be downstream from the discharge of a tributary or a segment immediately upstream which contains man caused pollutants as a result of nonpoint source activities occurring on that tributary or segment. As a result of the discharge, the mixing zone may not meet all water quality standards applicable to the ORW, but shall still be protected for existing beneficial uses. The Department, after consideration of input from interested parties, will determine the size, configuration and location of mixing zones which are necessary to meet the requirements of this chapter. (7-1-93)

8~~2~~1. Owner. For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

8~~3~~2. Owner Of Public Wastewater System. For purposes of Sections 403 through 4~~13~~05, the person, company, corporation, district, association or other organizational entity which holds legal title to the public wastewater system, and who provides, or intends to provide wastewater service to system users and is ultimately responsible for the public wastewater system operation. ~~(4-2-03)~~( )

8~~4~~3. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

8~~5~~4. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

8~~6~~5. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

8~~7~~6. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

8~~8~~7. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

8~~9~~8. Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (7-1-93)

~~90~~89. Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (7-1-93)

9~~1~~0. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

9~~2~~1. Public Wastewater System Or Wastewater System. For purposes of Sections

403 through 4~~13~~05, a public wastewater system means those systems, including collection systems and treatment systems, that are owned by a city, county, state or federal unit of government, a non profit corporation, district, association, political subdivision or other public entity, or that generate or collect two thousand five hundred (2,500) or more gallons a day; or that have been constructed in whole or in part with public funds. This does not include any wastewater treatment system operated and maintained exclusively by a single family residence or any wastewater system consisting solely of a gravity flow, non-mechanical septic tank and subsurface treatment and distribution system, any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds, or industrial wastewater systems under private ownership. ~~*(4-2-03)*~~( )

9~~3~~2. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

9~~4~~3. Recharge. The process of adding water to the zone of saturation. (7-1-93)

9~~5~~4. Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. (7-1-93)

~~***96. Reciprocity**. A system by which operator certificates issued by any other operator certification program are recognized as valid and equal to Idaho's Certification Program provision.* *(4-2-03)*~~

9~~7~~5. Reference Stream Or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

9~~8~~6. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

9~~9~~7. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions,

and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

~~*100*~~**98. Responsible Charge (RC)**. For purposes of Sections 403 through 413, responsible charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and/or on-call direction of employees and assistants. (4-2-03)

99. Responsible Charge Operator. For purposes of Sections 403 through 405, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site and/or on-call presence at the specified facility. ( )

10~~1~~**0. Responsible Persons In Charge**. Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

10~~2~~**1. Saturated Zone**. Zone or layer beneath the earth's surface in which all of the pore spaces of rock or soil are filled with water. (7-1-93)

10~~3~~**2. Secondary Treatment**. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (7-1-93)

10~~4~~**3. Seven Day Mean**. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

10~~5~~**4. Sewage**. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

10~~6~~**5. Short-Term Or Temporary Activity**. An activity which is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection

080.02. (3-20-97)

10~~7~~6. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

10~~8~~7. Sludge. The semi-liquid mass produced by partial dewatering of potable or spent process waters or wastewater. (7-1-93)

10~~9~~8. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (7-1-93)

a. To preserve outstanding or unique characteristics; or (7-1-93)

b. To maintain current beneficial use. (7-1-93)

1~~1~~09. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

11~~1~~0. State. The state of Idaho. (7-1-93)

11~~2~~1. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

11~~3~~2. Steady-State Model. A fate and transport model that uses constant values of input variables to predict constant values of receiving water quality concentrations. (8-24-94)

11~~4~~3. Substitute Responsible Charge Operator. A public wastewater operator holding a valid ~~*certificate*~~ license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ~~*(4-2-03)*~~( )

11~~5~~4. Subsurface Disposal. Disposal of effluent below ground surface, including, but not limited to, drainfields or sewage beds. (7-1-93)

11~~6~~5. Suspended Sediment. Organic and inorganic particulate matter which has been removed from its site of origin and measured while suspended in surface water. (7-1-93)

11~~7~~6. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed

in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

11~~8~~7. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

11~~9~~8. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

12~~0~~019. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

12~~1~~0. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

12~~2~~1. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. This definition does not apply to Sections 403 through 413. (4-2-03)

12~~3~~2. Trihalomethane (THM). THM means one of the family of organic compounds named as derivatives of methane, wherein three (3) of the four (4) hydrogen atoms in the molecular structure of methane are substituted by one (1) of the chemical elements chlorine, bromine or iodine. (7-1-93)

12~~4~~3. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

12~~5~~4. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or

desirable species of lake dwelling fishes. (8-24-94)

12~~6~~5. User. Any person served by a public wastewater system. (4-2-03)

~~***127. Validated Examination**. An exam that is independently reviewed by subject matter experts to ensure that the exam is based on an operator job analysis and is relevant and related to the classification of the system or facility.* (4-2-03)~~

~~***128. Waiver**. For purposes of Subsection 409.09 (Professional Growth Requirement), "waiver" means the deferral of the annual continuing education units (CEUs) required for operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it impossible for the operator to accrue the required CEUs by the certification renewal date (March 1).* (4-2-03)~~

12~~9~~6. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

1~~30~~27. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

~~***131. Wastewater Land Application Endorsement**. A non-renewable, one-time examination to determine competency of an operator working with a wastewater land application system. This examination may be taken in conjunction with the certification examination equal to or greater than the classification of the wastewater system or subsequent to having already taken and passed the certification examination equal to or greater than the classification of the wastewater system.* (4-2-03)~~

1~~3~~28. Wastewater Collection System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater collection system in order to safeguard the public health and environment. (4-2-03)

1~~33~~29. Wastewater Treatment Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment system in order to safeguard the public health and environment. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

403. CLASSIFICATION OF WASTEWATER SYSTEMS.

01. Classification Requirement. All public wastewater systems ~~*will*~~ shall be classified based on indicators of potential health risks. ~~*(4-2-03)*~~( )

a. Classification rating forms developed in accordance with the criteria in Subsection 403.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals detailing existing conditions. ~~*The Department will review the rating forms and classify the systems.*~~ ~~*(4-2-03)*~~( )

b. The Department ~~*will*~~ shall review system classification~~s~~ rating forms submitted by the public wastewater treatment and wastewater collection system owners at five (5) year intervals and ~~*make revisions*~~ classify the systems to reflect the condition at the time of the initial classification, or changed conditions, if any, on subsequent submittals. ~~*(4-2-03)*~~( )

02. Classification Criteria. Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-2-03)

a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-2-03)

b. Complexity or size of collection systems. (4-2-03)

c. Other criteria deemed necessary to completely classify systems. (4-2-03)

404. WASTEWATER SYSTEM OPERATOR ~~*CERTIFICATION*~~ LICENSURE REQUIREMENTS.

01. System Operator ~~*Certification*~~ Licensure Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system, under the responsible charge of an operator who holds a valid ~~*certification*~~ license equal to or greater than the classification of the wastewater treatment system and collection system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) ~~*certificates*~~ licenses, one (1) for wastewater treatment and one (1) for collection. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within ten (10) days of such change. ~~*(4-2-03)*~~( )

02. Responsible Charge Operator ~~*Certification*~~ License Requirement. An operator in responsible charge of a public wastewater system in Idaho must hold a valid ~~*certification*~~ license equal to or greater than the classification of the wastewater system(s), including each treatment system, where present, and each collection system as determined by the Department. ~~*(4-2-03)*~~( )

03. Substitute Responsible Charge Operator. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-2-03)

04. Wastewater Operator ~~*Certification*~~ Licensure. All other operating personnel at public wastewater systems including each treatment system and collection system must hold a valid ~~*certificate*~~ license. ~~*(4-2-03)*~~( )

05. Compliance Deadline. All public wastewater systems addressed in these rules shall be in compliance with these rules by April 15, 2006. (4-2-03)

06. Qualifications For ~~*Certification*~~ Operator Licensure. ~~*To qualify for a certificate an applicant must meet requirements of employment, education, experience, and examination as described in Section 406 or Section 407. Applicants may also receive certification through grandparenting as described in Section 405 or through reciprocity upon evaluation of his or her qualifications and comparison of Idaho certification rules to those of another state on a case-by-case basis.*~~ All wastewater operating personnel, including responsible charge and substitute responsible charge operators, must qualify for and hold a valid license issued by the Idaho Bureau of Occupational Licenses. ~~*(4-2-03)*~~( )

~~***07. Administration Of The Certification Program***. *Administration of all aspects of the public wastewater system operator certification program in Idaho shall be the responsibility of the Department.* *(4-2-03)*~~

~~***08. Contractor Activities***. *All administrative activities contracted to an operator certifying entity will be carried out in accordance with these rules.* *(4-2-03)*~~

~~***09. Optional Wastewater Operator Certification***. *Any operator of a wastewater system not required to meet this rule may choose to become certified in accordance with the criteria in Sections 405, 406 407 or 408. Upon issuance of a certificate, the operator is subject to certification renewal requirements referenced in Section 409.* *(4-2-03)*~~

~~***405. GRANDPARENTING.***~~

~~***01. Grandparenting Certificate***. *The Department may issue a grandparenting certificate only to a wastewater operator who was in responsible charge of an existing public wastewater system as of April 15, 2003. The grandparenting certificate will be site specific and non-transferable and can only be issued to a wastewater operator of a system that has demonstrated his or her competency to the Director and which, because of state law changes to meet these rules, a system must have a certified wastewater operator for the first time.* *(4-2-03)*~~

~~***02. Application Limitations***. *The owner of the system must submit an application to the Department for grandparenting by April 15, 2006. Applicants shall be subject to an application fee to cover processing costs.* *(4-2-03)*~~

~~***03. Certification Limitations***. *Upon receiving a grandparenting certificate the wastewater operator shall be required to meet renewal requirements including but not limited to continuing education and renewal fee requirements.* *(4-2-03)*~~

~~***04. Wastewater System Classification Limitations***. *If the classification of the wastewater system changes to a higher classification then the grandparenting certification is no longer valid.* *(4-2-03)*~~

~~***05. One System Limitation***. *A wastewater operator who is the wastewater operator in responsible charge of more than one (1) public wastewater system shall not be grandparented.*~~

(4-2-03)

06. Grandparent Professional Growth Requirement. In the first certification renewal cycle, every grandparented operator must complete and show documentation of completion of a one-time training requirement. The one-time training shall include all information covered by the qualifying certification exam for the certification class the operator holds. Following the first renewal cycle, the operator must meet the professional growth requirements described in Subsection 409.09. (4-2-03)

406. CERTIFICATION REQUIREMENTS FOR A WASTEWATER TREATMENT OPERATOR.

Every operator shall submit an application to the Department and meet the criteria in Section 406 to qualify for a certification classification in lagoons, wastewater treatment and, where applicable, in wastewater land application. See Section 407 for certification requirements for a public wastewater collection system operator. Applicants shall be subject to an application fee to cover examination and processing costs. (4-2-03)

01. Employment Requirement. Except for an Operator-In-Training (OIT) Classification, applicants for certification must be currently employed or working in the wastewater field. (4-2-03)

02. Examination Requirement. Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment required for the established certification classes. Examinations will be administered in accordance with established examination procedures. A wastewater land application operator operating a wastewater land application system is required to take and pass a written wastewater land application endorsement examination. (4-2-03)

03. Education And Experience Requirements. (4-2-03)

a. Basic Education and Experience Certification Requirements. (4-2-03)

i. To qualify for an Operator-In-Training Certificate, an operator must have a high school diploma or GED and pass an OIT exam. After passing an OIT exam, a "one-time" non-renewable certificate of "Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher public wastewater treatment system. (4-2-03)

ii. To qualify for a Lagoon certificate, an operator must have a high school diploma or GED and twelve (12) months of acceptable experience operating a Lagoon system. (4-2-03)

iii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher treatment system. (4-2-03)

iv. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience of a Class I or higher treatment

~~system.~~ ~~(4-2-03)~~

~~v. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class II or higher treatment system, including two (2) years active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class.~~ ~~(4-2-03)~~

~~vi. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class III or higher treatment system, including two (2) years of active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class.~~ ~~(4-2-03)~~

~~vii. To qualify for a Wastewater Land Application Endorsement, an operator must have a high school diploma or GED and the minimum operating experience appropriate to the classification of the wastewater system.~~ ~~(4-2-03)~~

~~**b.** Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below:~~ ~~(4-2-03)~~

~~i. For Class I or Lagoon certificate, no substitution for operating experience shall be permitted.~~ ~~(4-2-03)~~

~~ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience.~~ ~~(4-2-03)~~

~~iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however, the applicant must still have one (1) year of active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.~~ ~~(4-2-03)~~

~~iv. Education substituted for operating experience shall not also be applied to the education requirement.~~ ~~(4-2-03)~~

~~v. One (1) year of post high school education, other than described in Subsections 406.03.b.ii. and 406.03.b.iii., may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.~~ ~~(4-2-03)~~

~~**c.** Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below:~~ ~~(4-2-03)~~

~~i. One (1) year of operating experience may be substituted for two (2) years of grade~~

~~school with no limitation or one (1) year high school with no limitation.~~ ~~(4-2-03)~~

~~ii. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) year post high school education.~~ ~~(4-2-03)~~

~~**d.** Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following:~~ ~~(4-2-03)~~

~~i. Experience as an environmental or operations consultant;~~ ~~(4-2-03)~~

~~ii. Experience in an environmental or engineering branch of federal, state, county, or local government;~~ ~~(4-2-03)~~

~~iii. Experience as a wastewater collection system operator;~~ ~~(4-2-03)~~

~~iv. Experience as a wastewater treatment plant operator;~~ ~~(4-2-03)~~

~~v. Experience as a water distribution system operator and/or manager;~~ ~~(4-2-03)~~

~~vi. Experience as a water treatment plant operator; or~~ ~~(4-2-03)~~

~~vii. Experience in waste treatment operation and maintenance.~~ ~~(4-2-03)~~

~~**e.** Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies:~~ ~~(4-2-03)~~

~~i. High School - High School diploma, a GED, or other equivalent.~~ ~~(4-2-03)~~

~~ii. College – Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields).~~ ~~(4-2-03)~~

~~iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college.~~ ~~(4-2-03)~~

~~407. CERTIFICATION REQUIREMENTS FOR A WASTEWATER COLLECTION SYSTEM OPERATOR.~~

~~Every operator shall submit an application to the Department and shall meet the criteria in this Section to qualify for a certification classification in wastewater collections. Applicants shall be subject to an application fee to cover examination and processing costs.~~ ~~(4-2-03)~~

~~**01. Employment – Requirement**. Except for an Operator-In-Training (OIT) Classification, applicants for certification must be currently employed or working in the~~

~~wastewater field.~~ ~~(4-2-03)~~

~~**02. Examination Requirement**. Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment required for the established certification classes. Examinations will be administered in accordance with established examination procedures.~~ ~~(4-2-03)~~

~~**03. Education And Experience Requirements**.~~ ~~(4-2-03)~~

~~**a.** Basic Education and Experience Certification Requirements.~~ ~~(4-2-03)~~

~~i. To qualify for an Operator-In-Training Certificate, an operator must have a high school diploma or GED and pass an OIT exam. After passing an OIT exam, a "one-time" non-renewable certificate of "Operator-In- Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher public wastewater collection system.~~ ~~(4-2-03)~~

~~ii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher collection system.~~ ~~(4-2-03)~~

~~iii. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience.~~ ~~(4-2-03)~~

~~iv. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience.~~ ~~(4-2-03)~~

~~v. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience.~~ ~~(4-2-03)~~

~~**b.** Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below:~~ ~~(4-2-03)~~

~~i. For Class I certificate, no substitution for operating experience shall be permitted.~~ ~~(4-2-03)~~

~~ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience.~~ ~~(4-2-03)~~

~~iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience.~~ ~~(4-2-03)~~

~~iv. Education substituted for operating experience shall not also be applied to~~

~~education requirement.~~ ~~(4-2-03)~~

~~v. One (1) year of post high school education, other than described in Subsections 407.03.b.ii. and 407.03.b.iii., may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.~~ ~~(4-2-03)~~

~~c. Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below:~~ ~~(4-2-03)~~

~~i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation.~~ ~~(4-2-03)~~

~~ii. For Class III and IV, responsible charge experience may be substituted for post high school education on a two (2) for one (1) basis: two (2) years responsible charge = one (1) year post high school education.~~ ~~(4-2-03)~~

~~d. Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following:~~ ~~(4-2-03)~~

~~i. Experience as an environmental or operations consultant;~~ ~~(4-2-03)~~

~~ii. Experience in an environmental or engineering branch of federal, state, county, or local government;~~ ~~(4-2-03)~~

~~iii. Experience as a wastewater collection system operator;~~ ~~(4-2-03)~~

~~iv. Experience as a wastewater treatment plant operator;~~ ~~(4-2-03)~~

~~v. Experience as a water distribution system operator and/or manager;~~ ~~(4-2-03)~~

~~vi. Experience as a water treatment plant operator; or~~ ~~(4-2-03)~~

~~vii. Experience in waste treatment operation and maintenance.~~ ~~(4-2-03)~~

~~e. Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies:~~ ~~(4-2-03)~~

~~i. High School - High School diploma, a GED, or other equivalent.~~ ~~(4-2-03)~~

~~ii. College - Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields).~~ ~~(4-2-03)~~

iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college. (4-2-03)

408. RECIPROCITY.

The Director may waive examination requirements for applicants holding certificates or licenses issued by other States which have equivalent certification requirements. Applicants shall be subject to an application fee to cover processing costs. (4-2-03)

409. CERTIFICATES AND RENEWALS.

***01. Certificate Issuance**. Upon satisfying the requirements of Section 405, 406, 407 or 408, a certificate will be issued to the applicant designating his or her level of operating competency. (4-2-03)*

***02. Certificate Renewal**. Operators shall be subject to payment of fees and professional growth requirements to qualify for certificate renewal. Renewal fees shall be based on processing costs. Certificates shall be valid for two (2) years, beginning on March 1 of the year of issuance. (4-2-03)*

***03. Grandparent Certificate Issuance Limitation**. A grandparent certification shall not be issued within seventy-five (75) days of the certification renewal deadline in Subsection 409.02 to allow the grandparented operator sufficient time to meet the professional growth requirement referenced in Subsection 409.09. (4-2-03)*

***04. Invalidation Of Certificates**. Certificates for which the renewal fees and evidence of completion of approved training, as referenced in Subsection 409.09, are not received within sixty (60) days after the expiration date will be invalid. (4-2-03)*

***05. Renewal Of Invalidated Certificates**. Wastewater system operators whose certificates are invalidated may be renewed for up to two (2) years provided appropriate proof of competency is presented and reinstatement fees are paid. (4-2-03)*

***06. Recertification**. Wastewater system operators who have failed to renew or qualify for renewal of certificate(s) beyond two (2) years must recertify and provide appropriate proof of competency. (4-2-03)*

***07. Certificate Issuance**. Appropriate classification will be issued to wastewater system operators who, on the effective date of a mandatory program, hold valid wastewater certificates attained by examination under the voluntary program. (4-2-03)*

***08. Certificate Signatures**. Certificates shall be signed by the Director or his designee. (4-2-03)*

***09. Professional Growth Requirement**. Renewal of a certificate shall be based on demonstrations of continued professional growth in the field. A wastewater system operator shall submit satisfactory evidence of completion of approved training of a minimum one point two (1.2) CEUs as a condition for renewal of the certificate. The certification renewal period shall be two*

~~(2) years from March 1 through February 28 (29). It is the obligation of the wastewater system operator to present proof of CEUs earned along with the renewal fee. A wastewater system operator holding more than one (1) certificate issued under these wastewater rules need only complete the training required to satisfy renewal requirements for one (1) of these wastewater certificates.~~ ~~(4-2-03)~~

~~**10. Temporary Professional Growth Waiver**. The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsections 405.06 and 409.09 for certified wastewater system operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the renewal deadline. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsections 405.06 or 409.09 for the certification renewal cycle in progress at the time the operator returns to the state.~~ ~~(4-2-03)~~

4~~10~~5. CONTRACTING FOR SERVICES.
Public wastewater systems ~~that do not have a certified public wastewater system operator~~ may contract with a ~~certified~~ licensed public wastewater system operator or with a public wastewater system having ~~certified~~ licensed operators to provide supervision. The contracted public wastewater system operator or contracted entity shall employ an operator ~~certified~~ licensed at the grade equal to or greater than the classification of the system. ~~(4-2-03)~~( )

~~**411. PENALTIES.**~~
~~The Director may assess penalties in accordance with the following provisions:~~ ~~(4-2-03)~~

~~**01. General Authority**. The Department may enforce these rules and seek those remedies as provided in Title 39, Chapter 1, Idaho Code.~~ ~~(4-2-03)~~

~~**02. Falsification And Forgery**. Any person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed or registered, or recorded under any law of this state, or of the United States, is guilty of a felony. Section 18-3203, Idaho Code.~~ ~~(4-2-03)~~

~~**03. Civil Penalties**. Pursuant to Section 39-108, Idaho Code, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense and for continuing violations, each day's violation is separate and distinct.~~ ~~(4-2-03)~~

~~**412. SUSPENSION, REDUCTION OR REVOCATION.**~~

~~**01. Suspension, Reduction Or Revocation Of An Operator's Certificate**. The Director may suspend, reduce, or revoke a wastewater operator certificate, following notice and an opportunity for a hearing before the Board when the following conditions are found:~~ ~~(4-2-03)~~

~~**a.** It is found that the individual holding the wastewater certificate has engaged in misconduct such as fraud, falsification of the application, or falsification of operating records.~~ ~~(4-2-03)~~

~~***b.*** *The individual holding the wastewater certificate has failed to perform his or her duties as described in the definition of "Wastewater Collection System Operator" or the definition of "Wastewater Treatment Operator" found in Section 003 of these rules.* ***(4-2-03)***~~

~~***c.*** *It is found that the individual holding the wastewater certificate has failed to use reasonable care and judgment in the performance of his duties as described in the definition of "Wastewater Collection System Operator" or the definition of "Wastewater Treatment Operator" found in Section 003 of these rules, or the application of his knowledge and ability in the performance of his duties is unsatisfactory.* ***(4-2-03)***~~

~~***02. Appeals****. In the event of a decision to suspend, reduce or revoke a certificate under the conditions set forth in Section 412, the holder of that certificate may appeal the decision as provided for in Sections 39-107(6) and 39-107(7), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality".* ***(4-2-03)***~~

~~***413. ADVISORY GROUP.***~~
~~*Stakeholder Involvement. Ongoing stakeholder involvement may be provided through a wastewater advisory committee at the Department.* ***(4-2-03)***~~

4~~14~~06. -- 419. (RESERVED).

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 44 and 58, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: In May 2004, this rule was adopted by the Board as a temporary rule and is currently effective. A detailed summary of the reason for adopting the rule is set forth in the initial notice of proposed rule that published in the Idaho Administrative Bulletin, July 7, 2004 Volume 04-7, pages 112 through 114. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department of Environmental Quality (DEQ) states that this rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows:

1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c) and 40 CFR Section 124.18.

4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, DEQ will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23.

The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact John Brueck, (208)373-0458 or jbrueck@deq.state.id.us.

Dated this 21st day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective May 21, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking to promulgate a final rule. This action is authorized by Chapters 44 and 58, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: The Rules and Standards for Hazardous Waste, IDAPA 58.01.05, incorporate by reference 40 CFR 124.19, which sets out the procedures for administrative hearings and appeals regarding hazardous waste permits. The Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23, exclude Hazardous Waste Management Act (HWMA) permit appeals, which are governed instead by IDAPA 58.01.05.013 and 40 CFR 124.19. In May 2000 the Environmental Protection Agency revised 40 CFR 124.19. Those revisions caused the procedures for hearings and administrative appeals to be inconsistent with the procedures for contested cases set out in the Idaho Administrative Procedure Act (APA) by eliminating the opportunity for an evidentiary hearing and limiting appeals to record review. Recent case

law from the Idaho Supreme Court has made it clear that agencies must afford persons the procedural protection of the APA contested case provisions which include the right to present evidence and examine witnesses where appropriate.

This rulemaking is being undertaken to remove the incorporation by reference of 40 CFR 124.19 so that the procedures regarding hazardous waste permits will be consistent with the Idaho APA. This rule change will streamline the procedures of DEQ by eliminating the alternative procedures, making the rules and procedures for all permit appeals consistent within DEQ. Any citizen of the state of Idaho and/or regulated industry appealing a HWMA permit action of DEQ to the Board of Environmental Quality (Board) or having a direct and substantial interest in a proceeding filed with the Board may be interested in commenting on this rulemaking.

With this rule change, it is necessary to revise the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23, so that administrative procedures regarding HWMA permits are no longer excluded from the state administrative process.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department states that this proposed rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This proposed rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows: 1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13. 2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13. 3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c) and 40 CFR Section 124.18. 4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, the Department will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA

58.01.23. The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary because the rule confers a benefit. This rulemaking will provide greater procedural rights to parties involved in an administrative appeal concerning a HWMA permit action of DEQ by providing an opportunity to present evidence and examine witnesses, as well as other procedural protections.

NEGOTIATED RULEMAKING: The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 7, 2004, Volume 04-4, page 27. No members of the public attended the scheduled meeting.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact John Brueck, (208)373-0458 or jbrueck@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 2nd day of June, 2004.

Paula J. Wilson
Environmental Quality Section
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1410 N. Hilton
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).
40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2003, except that 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively.

~~*(3-20-04)*~~(5-21-04)T

(BREAK IN CONTINUITY OF SECTIONS)

996. ADMINISTRATIVE PROVISIONS.
~~*Except as set forth in Section 013 a*~~Administrative appeals of agency actions shall be governed by IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". ~~*(3-15-02)*~~(5-21-04)T

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, August 4, 2004, Volume 04-8, pages 203 through 209. DEQ received two public comments. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the comments and an explanation of the reasons for adopting the rule as initially proposed, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact John Brueck at (208)373-0458 or jbrueck@deq.state.id.us.

Dated this 21st day of October, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that the Department of Environmental Quality (DEQ) has proposed rulemaking. The action is authorized by Chapters 44 and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

DEPARTMENT OF ENVIRONMENTAL QUALITY ***Docket No. 58-0105-0402***
Rules and Standards for Hazardous Waste ***PENDING RULE***

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 18, 2004. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Idaho's Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the U.S. Environmental Protection Agency's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Idaho has historically adopted both required and optional federal regulations so that Idaho's hazardous waste rules are the same as federal requirements. Optional federal regulations usually allow more flexibility to the regulated community; required federal regulations are necessary to maintain program primacy. Adoption by reference allows the Department of Environmental Quality (DEQ) to keep its rules up to date with federal regulation changes and minimizes the EPA Region 10 effort needed to keep Idaho's authorization current. Adoption by reference also simplifies compliance for the regulated community. This proposed rule updates citations to the federal regulations incorporated by reference to include those revised as of July 1, 2004.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 legislative session if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

FEE SUMMARY: No fee is being imposed or increased by this rulemaking.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact John Brueck at (208)373-0502 or jbrueck@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. The Department will consider all written comments received by the undersigned on or before August 25, 2004.

Dated this 30th day of June, 2004.

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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.
Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 200~~3~~4, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(3-20-04)~~(_____)

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (7-2-97)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

a. U.S. Government Printing Office, http://www.gpoaccess.gov/index.html; and (3-20-04)

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316; and (7-2-97)

c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (7-2-97)

(BREAK IN CONTINUITY OF SECTIONS)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.
40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. ~~*(3-20-04)*~~( )

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.
40 CFR Part 261 and all Subparts, except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), except remanded waste codes "K064, K065, K066, K090 and K091" listed in 40 CFR Part 261 Appendix VII, except "49 CFR 173.300" in 40 CFR 261.21(a)(3) as replaced with "49 CFR 173.115 or equivalent test methods in Chapter 7 of SW-846," except "49 CFR 173.151" in 40 CFR 261.21(a)(4) as replaced with "49 CFR 173.127" and except 40 CFR 261.23(a)(8), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency.
~~*(3-20-04)*~~( )

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-16-96)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.01.d. (3-16-96)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-16-96)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d.; and (3-16-96)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.01.b.iv. (3-16-96)

vi. For purposes of Subsections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (3-16-96)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-16-96)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-16-96)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final

analytical results, and any CSEAFD which contributed to the sample must be: (3-16-96)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.01.d.; or (3-16-96)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.01.d. (3-16-96)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06
arsenic	0.50
barium	7.60
beryllium	0.010
cadmium	0.050
chromium	0.33
lead	0.15
mercury	0.009
nickel	1
selenium	0.16
silver	0.30
thallium	0.020
vanadium	2
zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (3-16-96)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from Envirosafe Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to Envirosafe Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the

language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 262.55, 262.56, and 262.57(b), "Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.51, 262.53, 262.54(g)(1), and 262.85(g), EPA shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262 Subparts E, F, H, and 40 CFR 262.41(a)(4), "United States or U.S." shall be defined as the United States. ~~(3-20-04)~~( )

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 265.56(d)(2), 262.34(d)(5)(iv)(C), (see 40 CFR 262.34(a)(4)), 263.30(c)(1), and 264.56(d)(2), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report. (3-15-02)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.
40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States.
~~(3-20-04)~~( )

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.
40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(3-20-04)~~( )

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.
40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)) and except the language contained in 40 CFR 265.340(b)(2) as replaced with, "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part.", are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~(3-20-04)~~( )

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.
40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. ~~(3-20-04)~~( )

011. LAND DISPOSAL RESTRICTIONS.
40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.(2)(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) In 40 CFR 268.48(a), the entry for "2,4,6-Tribromophenol" is excluded. ~~*(3-20-04)*~~(_____)

012. HAZARDOUS WASTE PERMIT PROGRAM.
40 CFR Part 270 and all Subparts, except 40 CFR 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. ~~*(3-20-04)*~~(_____)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).
40 CFR Part 124, Subparts A and B are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4, except that the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively.
~~*(3-20-04)*~~(_____)

(BREAK IN CONTINUITY OF SECTIONS)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. ~~*(3-20-04)*~~(_____)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the

use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.
40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 200~~3~~4. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. ~~*(3-20-04)*~~(_____)

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, September 1, 2004, Vol. 04-9, pages 228 through 263. DEQ received comments from the public. The proposed rule has been revised at Subsections 002.02.f. and 550.07.a. The remaining sections have been adopted as initially proposed. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: The engineering standards for design, construction, and operation of public water systems regulate activities that are not regulated by the federal government. These standards were promulgated to fulfill the requirements Idaho Code Section 39-118 and pre-date the Safe Drinking Water Act. This rulemaking updates and clarifies long-standing administrative rules. The rule revisions are no more stringent than the applicable federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Tom John at (208) 373-0191 or tjohn@deq.state.id.us.

DATED this 18th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that

this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 15, 2004. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department of Environmental Quality (DEQ) has initiated rulemaking to clarify language in various sections of the rules where interpretation is difficult or where the rules fail to accommodate accepted practices. This rulemaking also makes corrections to cross-reference citations and addresses other minor housekeeping issues. Specifically, the proposed rule addresses the following issues:

1) Broadens the language dealing with the use of disinfectants in public water systems and brings requirements into line with current science.

2) Improves language in sections that have posed interpretive difficulties, such as applicability of separation distances between main pipelines, certain requirements for well houses and other enclosures, clarification of language requiring plan and specification review for new or modified water systems, and other minor language changes to make the rules easier to read and understand.

3) Minor modifications to language regarding contracting for operator services. These modifications are necessary for implementation of the Drinking Water and Wastewater Professionals Licensing Act, Senate Bill 1279, wherein the Legislature transferred authority for the licensure of drinking water and wastewater operators from DEQ to a Governor appointed Drinking Water and Wastewater Professional Board and the Idaho Bureau of Occupational Licenses.

The proposed rule has been drafted to enhance ease of use by regulators, by water systems and their consultants, and by DEQ staff. The proposed changes will also avoid unnecessary restrictions on water system practices. Regulated public water systems and their customers, consulting engineers who design and oversee construction of public water works, and organizations that represent these groups may be interested in this rulemaking.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the

DEPARTMENT OF ENVIRONMENTAL QUALITY ***Docket No. 58-0108-0401***
Rules for Public Drinking Water Systems ***PENDING RULE***

Board of Environmental Quality in November 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

lDAHO CODE SECTION 39-107D STATEMENT: The engineering standards for design, construction, and operation of public water systems regulate activities that are not regulated by the federal government. These standards were promulgated to fulfill the requirements Section 39-118, Idaho Code, and pre-date the Safe Drinking Water Act. This rulemaking proposes only to update and clarify long-standing administrative rules. The changes made in this rulemaking are no more stringent than the applicable federal regulations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 -815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, June 2, 2004, Vol. 04-6, pages 47 and 48.
GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom John at (208) 373-0191 or tjohn@deq.state.id.us.

Anyone may submit written comments on this proposed rulemaking by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before September 29, 2004.

Dated this 21st day of July, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

002. INCORPORATION BY REFERENCE.
Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and

appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (3-15-02)

01. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. (5-3-03)

02. Availability of Specific Referenced Material. Copies of specific documents adopted by reference throughout these rules are available in the following locations: (12-10-92)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; and (7-1-97)

b. All documents herein incorporated by reference: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-1-97)

c. Recommended Standards for Water Works: a ~~committee~~ report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of ~~Department of~~ State and Provincial Public Health and Environmental ~~Health~~ Managers, published by Health Education Services, P.O. Box 7~~823~~126, Albany, New York 12224, ~~1997~~ 2003, Telephone (518) 439-7286. ~~(3-30-01)~~( )

d. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, ~~1301 North Orchard~~ *Idaho Water Center, 322 E. Front St.*, P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) ~~327-7900~~ *287-4800*. ~~(7-1-97)~~( )

g. ~~USEPA Guidance Manual, Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, March 1991 Edition, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238.~~ ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ~~(12-10-92)~~( )

h. ANSI/NSF Standard 53-200~~1~~2e -- 200~~1~~3, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) ~~827-6800~~ 769-8010. ~~(5-3-03)~~( )

i. ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. ( )

~~i~~**j.** ANSI/NSF Standard 58-200~~0a~~3 -- 200~~0~~4, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) ~~827-6800~~ 769-8010. ~~(5-3-03)~~( )

~~j~~**k.** American Water Works Association (AWWA) Standards, Edition effective July, 200~~2~~4, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. ~~(5-3-03)~~( )

~~k~~**l.** ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) ~~827-6800~~ 769-8010. ~~(5-3-03)~~( )

~~l~~**m.** ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) ~~827-6800~~ 769-8010. ~~(5-3-03)~~( )

~~m~~**n.** "Cross Connection Control Manual," December 1995 Edition, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (5-3-03)

~~*02. Federal Regulations. 40 CFR 141.2, revised as of July 1, 2001, is herein incorporated by reference, except for the definition of the terms action level, disinfection, noncommunity water system, and person.* (3-15-02)~~

003. DEFINITIONS.
The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". (5-3-03)

01. ABC. The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards. (4-5-00)

02. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

03. Administrator. The Administrator of the United States Environmental Protection Agency. (4-5-00)

04. **Annual Samples**. Samples that are required once per calendar year. (12-10-92)

05. **Aquifer**. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (5-3-03)

06. **Available**. Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. (4-5-00)

07. **Average Daily Demand**. The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

08. **Backflow**. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

09. **Board**. The Idaho Board of Environmental Quality. (5-3-03)

10. **Capacity**. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (4-5-00)

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

11. Certificate. Documentation of competency issued by the Director stating that the person (to be certified) has met requirements for a specific classification of the certification program. (4-5-00)

12. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

13. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

14. Compositing of Samples. The mixing of up to five (5) samples by the laboratory. (4-5-00)

15. Confining Layer. A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)

16. Confirmation Sample. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

17. Connection. Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

18. Consumer. Any person served by a public water system. (12-10-92)

19. Consumer Confidence Report (CCR). An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

20. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

21. Continuing Education Unit (CEU). An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-5-00)

22. Cross Connection. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

23. Department. The Idaho Department of Environmental Quality. (12-10-92)

24. Director. The Director of the Department of Environmental Quality or his designee. (12-10-92)

25. Disinfection. Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration and for the time required to kill or inactivate pathogenic and indicator organisms. (5-3-03)

26. Disinfection Profile. A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

27. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-16-04)

28. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

29. DWIMS. Idaho Department of Environmental Quality Drinking Water

Information Management System. Replaced by SDWISS April 2001. (3-15-02)

30. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

31. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

32. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak daily usage. ( )

3~~2~~3. Exemption. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

3~~3~~4. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

3~~4~~5. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

3~~5~~6. GAC10. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

3~~6~~7. Groundwater System. A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

3~~7~~8. Groundwater Under the Direct Influence of Surface Water. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (5-3-03)

3~~8~~9. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

~~39~~**40. Health Hazards**. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

~~40~~**41. Inorganic**. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

~~41~~**42. Laboratory Certification Reciprocity**. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

~~42~~**43. Log**. Logarithm to the base ten (10). (12-10-92)

~~43~~**44. Maximum Daily Consumption Rate**. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

~~44~~**45. Maximum Hourly Demand**. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

~~45~~**46. Maximum Residual Disinfectant Level (MRDL)**. A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

~~46~~**47. Maximum Residual Disinfectant Level Goal (MRDLG)**. The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

~~47~~**48. Method Detection Limit (MDL)**. The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

4~~8~~9. **New System**. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

~~4~~950. **Noncommunity Water System**. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

5~~0~~1. **Nontransient Noncommunity Water System**. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

5~~1~~2. **Nuclear Facility**. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

5~~2~~3. **Operator Certifying Entity**. An organization that contracts with the Department to provide public drinking water operator certification services. (4-5-00)

5~~3~~4. **Operating Experience**. The number of years spent at a drinking water system in performance of duties. (4-5-00)

5~~4~~5. **Operating Shift**. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

5~~5~~6. ~~*Operator/*~~**Owner/Purveyor of Water/Supplier of Water**. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. ~~*(4-5-00)*~~( )

5~~6~~7. **Operator Reciprocity**. Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification. (4-5-00)

5~~7~~8. **Peak Hourly Flow**. The highest hourly flow during any day. (12-10-92)

5~~8~~9. **Person**. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

~~5~~960. **Pesticides**. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algaecides. (12-10-92)

6~~0~~1. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

6~~1~~2. Public Drinking Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system". ~~*(4-5-00)*~~( )

~~***a.*** *In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system".* *(4-5-00)*~~

~~***b.*** *Connections.* *(4-5-00)*~~

~~*i.* *In General. For purposes of paragraph a. of this Subsection, a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if:* *(5-3-03)*~~

~~*(1)* *The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);* *(4-5-00)*~~

~~*(2)* *The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or* *(4-5-00)*~~

~~*(3)* *The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.* *(4-5-00)*~~

~~*ii.* *Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with paragraphs b.i.(2) and b.i.(3) of this Subsection.* *(5-3-03)*~~

~~*c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to the definition of a public drinking water system by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as set forth in paragraphs a. and b. of this Subsection) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (5-3-03)*~~

6~~2~~3. Public Water System/Water System/System. Means "public drinking water system". (4-5-00)

6~~3~~4. Reciprocity. A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho's Certification Program provision. (4-5-00)

6~~4~~5. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. (12-10-92)

6~~5~~6. Responsible Charge (RC). Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

6~~6~~7. Responsible Charge Operator. An operator of a public drinking water system, designated by the system owner, who holds a valid certificate at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (3-16-04)

6~~7~~8. Sampling Point. The location in a public water system from which a sample is drawn. (12-10-92)

6~~8~~9. Sanitary Defects. Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

~~69~~70. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

a. Source; (4-5-00)

b. Treatment; (4-5-00)

c. Distribution system; (4-5-00)

d. Finished water storage; (4-5-00)

e. Pumps, pump facilities, and controls; (4-5-00)

f. Monitoring and reporting and data verification; (4-5-00)

g. System management and operation; and (4-5-00)

h. Operator compliance with state requirements. (4-5-00)

7~~0~~1. **SDWIS-State**. An acronym that stands for "Safe Drinking Water Information System-State Version". It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

7~~1~~2. **Significant Deficiency**. As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

73. **Special Irrigation District**. An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. ( )

7~~2~~4. **Spring**. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

7~~3~~5. **Substitute Responsible Charge Operator**. An operator of a public drinking water system who holds a valid certificate at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (3-16-04)

7~~4~~6. **Surface Water System**. A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

7~~5~~7. **Specific Ultraviolet Absorption (SUVA)**. SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)

7~~6~~8. **Total Organic Carbon (TOC)**. Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

7~~7~~9. Transient Noncommunity Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

~~7~~80. Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

~~79~~81. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

8~~0~~2. Uncovered Finished Water Storage Facility. An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

8~~1~~3. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

8~~2~~4. Validated Examination. An exam that is independently reviewed by subject matter experts to ensure that the exam is based on an operator job analysis and is relevant and related to the classification of the system or facility. (3-16-04)

8~~3~~5. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the determent does not cause an unreasonable risk to public health. (12-10-92)

8~~4~~6. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

8~~5~~7. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

8~~6~~8. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

8~~7~~9. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, "waiver" means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

d. For purposes of Subsection 559.02 (Professional Growth Requirement), "waiver" means the deferral of the continuing education units (CEU) required for operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it impossible for the operator to accrue the required units by the certification renewal date (March 1). (3-16-04)

***88*90. Water for Human Consumption**. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms "culinary water", "drinking water," and "potable water" are frequently used as synonyms. (5-3-03)

***8*91. Water Main**. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

9*0*2. Water Distribution Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public drinking water distribution system in order to safeguard the public health and environment. (3-16-04)

9*1*3. Water Treatment Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public drinking water treatment facility in order to safeguard the public health and environment. (3-16-04)

94. Well House. A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, distribution line, or a treatment unit. Well houses are often called pump houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. ( )

(BREAK IN CONTINUITY OF SECTIONS)

300. FILTRATION AND DISINFECTION.

01. General Requirements. 40 CFR 141.70, revised as of July 1, 2002, is herein incorporated by reference. Each public water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel, as specified in Sections 553 and 554, who have met state requirements for licensing of water system operators. ~~(5-3-03)~~( )

~~***a.*** *Each community and nontransient noncommunity system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c) and Sections 553 through 562 of these rules.* (4-5-00)~~

~~***b.*** *Each transient water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c). Such personnel must:* (4-5-00)~~

~~*i.* *Be certified as Drinking Water System Operators pursuant to the requirements of Sections 553 through 562; or* (4-5-00)~~

~~*ii.* *Be certified as qualified to operate the water system by the Department. The Department may certify an individual as qualified to operate the water system if:* (12-10-92)~~

~~*(1)* *The individual operated the system on or before December 31, 1992; and* (12-10-92)~~

~~*(2)* *The Department determines that the system has not been modified after December 31, 1992; or* (4-5-00)~~

~~*(3)* *The Department determines that the compliance history of the system is acceptable; and* (12-10-92)~~

~~*(4)* *The individual passes any field evaluation of operating and record keeping procedures required by the Department; and* (4-5-00)~~

~~*(5)* *Upon thirty (30) days notice, personnel operating the system shall attend periodic training sessions as required by the Department.* (12-10-92)~~

02. Criteria for Avoiding Filtration. 40 CFR 141.71, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

03. Disinfection. 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at maximum hourly demand before delivery to the first customer. (12-10-92)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather

than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide at least ninety-nine and nine tenths percent (99.9%) inactivation and/or removal of Giardia lamblia cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation and/or removal of viruses as specified in 40 CFR 141.72 and Section 300. However, in all cases the disinfection portion of the treatment train shall be designed to provide not less than five tenths (0.5) log Giardia inactivation, irrespective of the Giardia removal credit awarded to the filtration portion of the treatment train. (5-3-03)

i. Each system which provides filtration treatment shall submit engineering evaluations and/or other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c. (7-1-97)

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal and/or inactivation credit allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	**Giardia**	**Viruses**
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Membrane	3.0	1.0
Alternate technology	2.0	0

(5-3-03)

iii. Filtration removal credit shall be granted for filtration treatment provided the system is; (12-10-92)

(1) Operated in accordance with the Operations Plan specified in Subsection 552.06.a.; and (12-10-92)

(2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)

(3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in

operation; and (12-10-92)

(4) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)

(5) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

04. Filtration. 40 CFR 141.73, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

05. Analytical and Monitoring Requirements. 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)

(1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)

(2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)

(3) The disinfectant contact time, "T," must be determined each day during peak hourly flow. Disinfectant contact time, "T," in pipelines used for Giardia lamblia and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe. Disinfectant contact time, "T," for all other system components used for Giardia lamblia and virus inactivation shall be determined by tracer studies or equivalent methods. (12-10-92)

(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hourly flow, or at other times approved by the Department.

(12-10-92)

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)

iv. The total inactivation ratio shall be calculated as follows: (12-10-92)

(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)

(a) One inactivation ratio (CTcalc/CT99.9) is determined at/or before the first customer during peak hourly flow; or (12-10-92)

(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hourly flow. The following method must be used to calculate the total inactivation ratio: (12-10-92)

(i) Step 1: Determine (CTcalc/CT99.9) for each sequence. (12-10-92)

(ii) Step 2: Add the (CTcalc/CT99.9) values for all sequences. The result is the total inactivation ratio. (12-10-92)

(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The sum of the (CTcalc/CT99.9) values from all sequences is the total inactivation ratio. (CTcalc/CT99.9) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (12-10-92)

v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement ~~*will be allowed*~~ must be approved by the Department ~~*provided they are listed as "Recommended" in the USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, Appendix D, as set forth in Subsection 002.02.g., and provided they are calibrated on a schedule approved by the Department using the Indigo Method*~~. ~~*(12-10-92)*~~( )

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	**Samples/day**
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system.

(12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department:

(12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded; and (12-10-92)

(4) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

e. The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

f. The Department may allow a reduced turbidity monitoring frequency for systems

using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

06. Reporting and Recordkeeping. 40 CFR 141.75, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

a. As provided in 40 CFR 141.75(a), revised as of July 1, 2001, and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a), revised as of July 1, 2001, and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (3-15-02)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

(1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)

(2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)

(3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

(1) Turbidity monitoring information; and (12-10-92)

(2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b), revised as of July 1, 2001, pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation and/or removal achieved each day by filtration and disinfection. (3-15-02)

07. Recycle Provisions. 40 CFR 141.76, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

a. The Department shall evaluate recycling records kept by water systems pursuant to 40 CFR 141.76 during sanitary surveys, comprehensive performance evaluations, or other

inspections. (5-3-03)

b. The Department may require a system to modify recycling practices if it can be shown that these practices adversely affect the ability of the system to meet surface water treatment requirements. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

550. DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.

01. System Design. Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems shall be in conformance with "Recommended Standards for Water Works, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of ~~*Department Sanitary Engineers*~~ State and Provincial Public Health and Environmental Managers," as set forth in Subsection 002.02.c. ~~*and with recommended changes and additions to this document as found in the "USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources," as set forth in Subsection 002.02.g. (7-1-97)*~~( )

02. Materials. Unless otherwise authorized by the Department on a site-specific basis, ~~*M*~~materials ~~*which*~~ that are used to construct public drinking water systems and ~~*which*~~ have water contact surfaces must comply with applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF ~~*s*~~Standard ~~*61 or NSF standard*~~ 53, ~~*or*~~ 58, or 61 ~~*unless otherwise approved by the Department on a site specific basis*~~. Corrosion control shall be taken into account during all aspects of public water system design. ~~*(5-3-03)*~~( )

03. Wells. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

a. Prior to drilling, the site of a PWS well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (5-3-03)

i. An evaluation of the potability and quality of anticipated groundwater. (5-3-03)

ii. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)

iii. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

iv. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models. (5-3-03)

v. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)

vi. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

b. Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; in vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination; (5-3-03)

c. Each well shall comply with the minimum Well Construction Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f.; except that no public water system well shall have less than fifty-eight (58) feet of annular seal of not less than two (2) inches thickness, unless: (5-3-03)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

d. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f. This applies to new well construction and repair of existing wells. (5-3-03)

e. Upon completion of a groundwater source, and prior to its use as drinking water, the following information and data must be submitted by the water system to the Department: (5-3-03)

i. A copy of all well logs; (12-10-92)

ii. Results of test pumping, as specified in Subsection 550.03.f.; (5-3-03)

iii. As constructed plans showing at least the following: (12-10-92)

(1) Annular seal, including depth and sealant material used and method of application; (5-3-03)

(2) Casing that meets the requirements set forth in Section 3.2.5.4 of Recommended Standards for Water Works, including weights and thicknesses specified in Table 1 of that

publication; (5-3-03)

(3) Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

(4) Pump location; and (12-10-92)

(5) For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. (5-3-03)

iv. Other information as may be specified by the Department. (12-10-92)

v. Sampling results for iron, manganese, corrosively, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsection 551.01. (5-3-03)

f. Test pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

i. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown has stabilized. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown has stabilized. In either case, if the drawdown does not stabilize, the pumping must continue for at least seventy-two (72) consecutive hours. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, the well design shall be re-evaluated and submitted to the Department for approval. (5-3-03)

ii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, and re-developed. (5-3-03)

iii. The following data shall be provided: (5-3-03)

(1) Static water level in the well prior to test pumping; (5-3-03)

(2) Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

(3) Water level in the well recorded at regular intervals during pumping; (5-3-03)

(4) Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

(5) Depth at which the test pump was positioned in the well; (5-3-03)

(6) Test pump capacity and head characteristics; (5-3-03)

(7) Sand production data. (5-3-03)

(8) Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. (5-3-03)

iv. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 550.03.d.iii. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (5-3-03)

g. A smooth-nosed sample tap shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. Any threaded taps installed in the wellhouse must be equipped with an appropriate backflow prevention device. (5-3-03)

h. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap at a location prior to the first service connection; ~~*(5-3-03)*~~( )

i. A pressure gauge shall be provided at all installations; (12-10-92)

j. A totalizing flow meter shall be installed on the discharge line of each well. An accessible check valve shall be installed above ground in the discharge line of each well; (5-3-03)

k. All wells except flowing artesian wells shall be vented, with the open end of the vent screened and terminated downward at least eighteen (18) inches above the ~~*floor of the pump house*~~ final ground surface. ~~*(12-10-92)*~~( )

l. The following requirements apply to well casings and seals: (12-10-92)

i. Casings shall extend a minimum of ~~*twelve*~~ eighteen (1~~2~~8) inches above the ~~*finished*~~ final ground surface and, if the well is located within a well house, ~~*six*~~ twelve (~~6~~12) inches above the well house floor. ~~*(12-10-92)*~~( )

ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well. (12-10-92)

iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well. (12-10-92)

iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water. (12-10-92)

m. The following requirements apply to well houses as defined in Section 003, unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: ~~*(12-10-92)*~~( )

i. Well houses shall be protected from flooding and be adequately drained. The floor surface shall be at least six (6) inches above the final ground surface. An electrically powered ventilation fan or automated air flow system shall be provided to remove excess heat and moisture during peak summer temperatures. If the well operates year round, a thermostatically regulated heater shall also be installed to prevent moisture buildup during cold weather. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. ~~*(5-3-03)*~~( )

ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance. Plans and specifications for well houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (5-3-03)

iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials. (12-10-92)

iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. (12-10-92)

v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well. (12-10-92)

vi. Pitless adapters or pitless units: (12-10-92)

(1) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

(2) Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

(3) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," as set forth in Subsection 002.02.d., or other procedure approved by the Department shall be followed. (5-3-03)

n. Wells shall not be located in pits. Exceptions to Subsection 550.03.l. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers.

(12-10-92)

o. A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

p. New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. ~~*The second source shall be capable of producing at least eight hundred (800) gallons per day per service connection.*~~ With any source out of service, the remaining source or sources shall be capable of providing either the peak hour demand of the system or maximum daily pumping demand plus equalization storage. The Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors: ~~*(5-3-03)*~~( )

i. Population served or number of service connections; (5-3-03)

ii. Length of water mains; (5-3-03)

iii. Peak or average water demand per connection. (5-3-03)

q. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

r. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other toxic or hazardous materials shall be stored on a well lot, except that: (5-3-03)

i. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

ii. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

iii. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A ~~*certified*~~ licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. ~~*(5-3-03)*~~( )

iv. Should the internal combustion engine be located within the well house, the floor of the well house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the well house. (5-3-03)

v. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ~~*fifty*~~ ten percent (15~~1~~0%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. ~~*(5-3-03)*~~( )

04. Springs. For new spring sources, the Department may require a site evaluation report as set forth for wells in Subsection 550.03.a. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (5-3-03)

a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)

b. A sample tap shall be provided; (12-10-92)

c. A flow meter or other flow measuring device shall be provided; and (12-10-92)

d. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (5-3-03)

05. Surface Sources and Groundwater Sources Under the Direct Influence of Surface Water. (10-1-93)

a. Design Criteria. (12-1-92)

i. The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)

ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)

iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of Giardia lamblia cysts; and (10-1-93)

(1) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

(2) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

(3) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

(4) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against giardia and viruses. (10-1-93)

v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)

vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (12-10-92)

vii. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (5-3-03)

viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)

ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)

b. Filtration technology. (12-10-92)

i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)

ii. Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (5-3-03)

iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)

(1) That the filtration technology: (12-10-92)

(a) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)

(b) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)

(2) Using field studies or other means acceptable to the Department, that the filtration

technology: (12-10-92)

(a) In combination with disinfection treatment, consistently achieves at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (5-3-03)

(b) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

c. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)

i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)

iii. The system's pilot study plan shall identify at a minimum: (12-10-92)

(1) The objectives of the pilot study; (12-10-92)

(2) Pilot filter design; (12-10-92)

(3) Water quality and operational parameters to monitor; (12-10-92)

(4) Amount of data to collect; and (12-10-92)

(5) Qualifications of the pilot plant operator. (10-1-93)

iv. The system shall ensure that the pilot study is: (12-10-92)

(1) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

(2) Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)

(3) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)

(4) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

d. New systems constructed after July 1, 1985, are required to install redundant disinfection components as required to maintain constant application of disinfectant whenever

water is being delivered to the distribution system. (5-3-03)

06. Distribution System. Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)

a. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)

b. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (5-3-03)

c. All source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter~~s~~ unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. ~~*(5-3-03)*~~( )

d. Booster pumps must comply with the following: (12-10-92)

i. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (5-3-03)

ii. Booster pumps ~~*located on*~~ with a suction line~~s~~ directly connected to any storage reservoirs shall be ~~*supplied with*~~ protected by an automatic cutoff ~~*when pressure is equal to or less than two and one-half (2.5) psi*~~ to prevent pump damage and avoid excessive reservoir drawdown. ~~*(12-10-92)*~~( )

iii. Buildings enclosing booster pump stations shall be provided with an electrically powered ventilation fan or automated air flow system to remove heat and moisture during peak summer temperatures. If the facility is operated year round, a thermostatically regulated heater shall be installed to prevent moisture buildup during cold weather. (5-3-03)

e. Pipe materials and standards will comply with the following: (12-10-92)

i. Pipe, packing and jointing materials shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.02.~~*j*~~k., or other standards approved in writing by the Department. ~~*(7-1-97)*~~( )

ii. Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system. (12-10-92)

iii. All distribution system appurtenances shall comply with AWWA Standards, as set forth in Subsection 002.02.~~*j*~~k. ~~*(5-3-03)*~~( )

f. Fire hydrants shall not be connected to water mains smaller than six (6) inches in

diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (5-3-03)

g. Water and non-potable water mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following standards shall be met: (5-3-03)

i. The water and non-potable water mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the ~~*sewer*~~ non-potable main shall be constructed to water main standards; and ~~*(5-3-03)*~~( )

ii. The water main shall be a minimum of eighteen (18) inches above the ~~*sewer*~~ non-potable water main. ~~*(12-10-92)*~~( )

h. The requirements for vertical separation of water and ~~*sewer*~~ non-potable water mains are as follows: ~~*(5-3-03)*~~( )

i. At any point where the non-potable water and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches. (5-3-03)

ii. At any point where the non-potable water main crosses above the water main, the non-potable water main shall be supported to prevent settling. (5-3-03)

iii. At any point where the non-potable water and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the non-potable water main. (5-3-03)

iv. If the ~~*water main is below the non-potable water main*~~ eighteen (18) inch vertical separation cannot be maintained, the non-potable water main shall be constructed of materials conforming to water main standards ~~*if the eighteen (18) inch vertical separation cannot be maintained*~~. ~~*(5-3-03)*~~( )

v. In lieu of constructing or reconstructing the non-potable water main either the non-potable water main or water main may be ~~*encased with*~~ protected by a sleeving material acceptable to the Department for a distance of ten (10) horizontal feet on both sides of the crossing. ~~*(5-3-03)*~~( )

~~***i.*** *All other pipelines which carry nonpotable liquids shall meet the minimum separation requirements of Subsections 550.06.g. and 550.06.h.* *(5-3-03)*~~

***j*i.** A minimum horizontal distance of twenty-five (25) feet shall be maintained between a subsurface sewage disposal system and any water distribution pipe. (12-10-92)

***k*j.** All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of five (5) feet per second. (5-3-03)

~~*l*~~**k.** Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association standards as set forth in Subsection 002.02.~~*j*~~k. ~~*(7-1-97)*~~( )

~~*m*~~**l.** Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (5-3-03)

~~*n*~~**m.** All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. (5-3-03)

~~*o*~~**n.** All new public water systems that are constructed where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and ii., plus a static compensation from the elevation of the main to the elevation of each building site. (5-3-03)

i. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

ii. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

07. Cross Connection. There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. (5-3-03)

a. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. *Reference should be made to the AWWA "Cross Connection Control Manual," as specified in Subsection 002.02.n. of these rules.* The program will include: ~~*(5-3-03)*~~( )

i. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-3-03)

ii. Required installation and operation of adequate backflow prevention assemblies. A ~~*list of minimum recommended devices*~~ selection chart for various facilities, fixtures, equipment, and uses of water is provided in Subsection 900.02 (Table 2). ~~*(5-3-03)*~~( )

iii. Annual inspections and testing of all installed backflow prevention assemblies by a tester ~~*certified by the Department, or*~~ licensed by a ~~*certifying*~~ licensing authority recognized by the Department. ~~*Testers are to be re-certified every two (2) years.*~~ ~~*(5-3-03)*~~( )

iv. Discontinuance of service to any facility where suitable backflow protection has not been provided for a cross connection. (12-10-92)

v. If double check valves and/or reduced pressure principle backflow prevention assemblies and/or pressure vacuum breakers are used, they must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research ~~*or*~~ and meet the American Water Works Association C-510 or C-511 standard, or ~~*another equal test*~~ an equivalent standard approved by the Department.
~~*(5-3-03)*~~( )

vi. If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)

vii. Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention assemblies, and pressure vacuum breakers are installed. (5-3-03)

b. All suppliers of water for non-community water systems shall ensure that cross-connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected for functionality on a regular basis by a certified tester, as specified in Subsection 550.07.a.iii. (5-3-03)

08. Water Storage. Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)

a. All storage reservoirs shall be protected from flooding; (12-10-92)

b. Stored water shall be protected from contamination; (12-10-92)

i. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (5-3-03)

ii. No storage tank or clear well located below ground level is allowed within fifty (50) feet of a sanitary sewer or septic tank. However, if the sanitary sewer is constructed to water main standards, the minimum separation distance is ten (10) feet. (5-3-03)

c. All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)

d. Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof. At least two (2) manholes located above the water line shall be provided where space permits. (5-3-03)

e. Overflows ~~*and drains*~~ shall ~~*have free fall discharges which are screened and shall not be connected to a sewer (storm or sanitary);*~~ be downturned, discharge to daylight, and be provided with either:
~~*(12-10-92)*~~( )

i. A twenty-four (24) mesh noncorrodible screen installed within the pipe when practical, or; ( )

ii. An expanded metal screen installed within the pipe plus a weighted flapper valve, or; ( )

iii. An equivalent system acceptable to the Department. ( )

f. Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. ( )

~~*f*~~**g.** Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of contamination; (12-10-92)

~~*g*~~**h.** The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)

~~*h*~~**i.** There shall be a minimum distance of fifty (50) feet between any buried or partially buried storage reservoir and any sanitary sewers, storm sewers, or any other source of contamination. The area around ground level reservoirs shall be graded in a manner that will prevent standing water within ten (10) feet. (5-3-03)

~~*i*~~**j.** Hydroneumatic (pressure) tanks shall be acceptable for small water systems serving up to one hundred fifty (150) homes. (5-3-03)

~~*j*~~**k.** Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (5-3-03)

~~*k*~~**l.** All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (5-3-03)

09. Disinfection. Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.02.~~*j*~~k., prior to being placed into service. ~~*(7-1-97)*~~( )

10. Violations. Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

551. CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.

01. Engineering Report. For all new water systems or modifications to existing water systems, an engineering report shall be submitted for the Department's review and approval prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: (12-10-92)

a. A general description and location of the project; (12-10-92)

b. The estimated design population of the project; (12-10-92)

c. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)

d. Storage requirements; (12-10-92)

e. Pressure ranges for normal and peak flow conditions; (12-10-92)

f. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. (5-3-03)

g. Adequacy, quality and availability of sources of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation of legal water rights sufficient to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system. (5-3-03)

h. For a community system, results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)

i. For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (5-3-03)

j. For a transient noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (5-3-03)

k. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)

l. For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)

m. Potential sources of contamination to proposed sources of water; (12-10-92)

n. Mechanisms for protection of the system from flooding; (12-10-92)

o. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (12-10-92)

i. Hydrological and historical low stream flow data; (12-10-92)

ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)

iii. Anticipated turbidity ranges, high and low; and (12-10-92)

iv. Treatment selection process and alternative evaluations. (12-10-92)

p. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information must be provided for a proposed groundwater source: (12-10-92)

i. A site evaluation report as required in Subsection 550.03.a. for wells and Subsection 550.04 for springs; (5-3-03)

ii. Dimensions of the well lot; and (12-10-92)

iii. Underground geological data and existing well logs. (12-10-92)

02. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

03. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

04. Review of Plans and Specifications. (12-1-92)

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve ten (10) or more service connections, or modifications of existing public water systems, plans and specifications must be submitted to the Department for review, and approved. The minimum review requirements are as follows: ~~*(5-3-03)*~~( )

i. Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; except that the Department will accept the seal of an Idaho registered professional geologist on the following: (5-3-03)

(1) Well or spring source site evaluation reports, as specified in Subsections 550.03.a. and 550.04.

(5-3-03)

(2) Plans and specifications for well construction and results of field inspection and testing, as specified in Subsections 550.03.e. and f. (5-3-03)

ii. Plans shall provide topographical data; (12-10-92)

iii. Plans shall show location of sources or potential sources of contamination. If a separate, non-potable irrigation system is to be provided, the irrigation system shall be fully documented in the plans and specifications; (5-3-03)

iv. Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.02.~~j~~k. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and ~~(7-1-97)~~( )

v. Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.02.~~j~~k.
~~(7-1-97)~~( )

b. During construction or modification, ~~no~~ the Department must be notified of any substantial deviation ~~can be made~~ from the approved plans. ~~without t~~The Department's prior written approval~~; and~~ is required before any substantial deviation is allowed. ~~(12-10-92)~~( )

c. Within thirty (30) days after the completion of construction, the water system shall submit to the Department plans and specifications prepared and stamped by an Idaho registered professional engineer responsible for supervision of construction observation on behalf of the owner. These plans and specifications shall depict ~~significant deviations in~~ the actual construction and illustrate alterations or modifications performed, based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer. ~~(5-3-03)~~( )

d. If actual construction of the water system does not deviate from the originally approved plans and specifications, the water system may submit a written statement to this effect, prepared and stamped by an Idaho registered professional engineer. This statement shall be based on as-built drawings provided by the contractor and field observations made by observer(s) under the direction of the professional engineer. (5-3-03)

05. Exception. A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. (5-3-03)

06. Construction. No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)

07. Source. Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

08. Well Abandonment. Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the groundwater, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be

obtained from the Idaho Department of Water Resources. (5-3-03)

552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. (12-1-92)

a. Minimum Quantity. The capacity of a public drinking water system shall in no instance be less than eight hundred (800) gallons per day per residence, plus irrigation flows. (5-3-03)

b. Minimum Pressure. (12-1-92)

i. Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (including fire flow) to maintain a minimum pressure of twenty (20) psi throughout the distribution system, as measured at the service connection or along the property line adjacent to the consumer's premises. (5-3-03)

ii. Any public water system constructed or significantly modified after July 1, 1985, shall maintain a minimum pressure of forty (40) psi throughout the distribution system, at peak hour flow during peak day of the year, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. (5-3-03)

(1) Existing water systems that are planning to expand their service area shall meet the criteria in Subsections 552.01.b.i. and 552.01.b.ii. in the new service area. Such systems should upgrade pressure standards in the existing system at the same time as the expansion occurs. (5-3-03)

(2) Compliance with these requirements by water systems that do not have a meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (5-3-03)

iii. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing devices installed in the distribution main. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. (5-3-03)

iv. When pressures within the system are known to have fallen below twenty (20) psi, the water system must provide public notice and disinfect the system. (5-3-03)

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (5-3-03)

d. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. (5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (5-3-03)

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if: (5-3-03)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (5-3-03)

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (5-3-03)

02. Additives. No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.02.~~j~~k., and be listed as approved under ANSI/NSF standard 60 or 61, as set forth in Subsections 002.02.~~k~~l.i. and 002.02.~~l~~m. ~~(7-1-97)~~( )

03. Groundwater. (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)

i. Location of possible sources of contamination; (12-10-92)

ii. Size of the well lot; (12-10-92)

iii. Depth of the source of water; (12-10-92)

iv. Bacteriological quality of the aquifer; (12-10-92)

v. Geological characteristics of the area; and (12-10-92)

vi. Adequacy of development of the source. (12-10-92)

04. Operating Criteria. The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)

a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)

b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Report of the Water Supply Committee ~~*Report*~~ of the Great Lakes - Upper Mississippi River Board of ~~*Department*~~ Public Health and Environmental Managers as set forth in Subsection 002.02.c., or other equal standard designated by the Department. ~~*(12-10-92)*~~( )

c. New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (12-10-92)

05. ~~*Disinfection*~~. ~~*Where chlorine is used as a disinfectant:*~~ **Chlorination**. Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Section 300 and Subsection 550.05. ~~*(12-10-92)*~~( )

a. Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: ( )

~~**a**~~i. Chlorinator capacity shall be such that ~~*a free chlorine residual of at least two (2) parts per million can be attained in the water after a contact time of thirty (30) minutes*~~ the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%)) inactivation of viruses. The required contact time will be specified by the Department. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. ~~*(12-10-92)*~~( )

ii. A detectable chlorine residual shall be maintained throughout the distribution system. ( )

~~*b. A minimum of at least two-tenths (0.2) ppm free chlorine shall be maintained in the treated water after an actual contact period of at least thirty (30) minutes at maximum hourly demand before delivery to the first consumer.* (10-1-93)~~

~~*c.*~~iii. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)

~~*d.*~~iv. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for at least ~~*five*~~ one (~~5~~1) year~~s~~. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. ~~*(12-10-92)*~~( )

~~*e.*~~v. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)

~~*f.*~~vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.~~*b.*~~a.i. ~~*(12-10-92)*~~( )

~~*g.*~~vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.02.c. (12-10-92)

b. Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: ( )

i. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. ( )

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. ( )

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.05.b.ii. also apply if the system maintains a chlorine residual in the distribution system. ( )

06. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.02.~~*j.*~~k. Use of other chemicals shall be specifically approved by the Department. ~~*(4-5-00)*~~( )

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)

c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)

d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)

e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

560. CONTRACTING FOR SERVICES.

~~*Water systems that do not have a certified public drinking water system operator may contract with a certified public drinking water system operator or with a public drinking water system having certified operators to provide supervision. The contracted public drinking water system operator or contracted entity shall employ an operator certified at the classification equal to or greater than the classification of the treatment or distribution system.*~~ Public water systems may contract with persons to provide responsible charge operators and substitute responsible charge operators. Proof of such contract shall be submitted to the Department prior to the contracted person performing any services at the public water system. ~~*(3-16-04)*~~( )

~~***01. Supervision**. For supervision required in this rule to be sufficient, the contracted certified water system operator or contracted entity shall: (4-5-00)*~~

~~***a.** Be available on twenty-four (24) hour call and able to respond onsite upon request. (4-5-00)*~~

~~***b.** Report the results of analyses or measurements that indicate maximum contaminant levels have been exceeded or that minimum treatment levels are not maintained and report the results of these analyses to the operator, owner, purveyor or supplier of water. (4-5-00)*~~

~~***c.** Recommend corrective action when the results of analyses or measurements indicate maximum contaminant levels have been exceeded or minimum treatment levels are not maintained. (4-5-00)*~~

~~***d.** Recommend that all elements of routine operation and maintenance of the water system are completed in accordance with accepted public health practice and these rules. (4-5-00)*~~

~~***02. Proof of Contract**. Proof of the contract shall be submitted to the Department. (4-5-00)*~~

(BREAK IN CONTINUITY OF SECTIONS)

900. TABLES

01. Table 1 - Minimum Distances From a Public Water System Well.

Minimum Distances from a Public Water System Well	
Sewer line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Canals, streams, ditches, lakes, ponds and tanks used to store nonpotable substances	50 feet

(12-10-92)

02. Table 2 - Selection Chart for Minimum Backflow Prevention Services.

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITY ~~IES~~, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Animal Watering	X	X		X	X
Aspirators, harmful substance	X	X		X	X
Autopsy Equipment	X	X		X	
Autoclaves				X	
Boiler Feeds without harmful chemicals			X		
Boiler Feeds with harmful chemicals ~~(unharmful)~~			~~(X)~~	X	X
Bed Pan Washers	X	X			
Cuspidors, Open Outlet	X	X			
Cuspidors, Valved Outlet		X			
Dairies and Farms -- ~~(~~high risk~~)~~				X	X
Dairies and Farms -- ~~(~~low risk~~)~~			X	X	X
Dishwashers	X	X			X
Domestic Water Booster Pump on service lines			X	X	
Garbage Can Washers		X			X

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITY ~~/~~IES, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Heat Exchangers with transfer fluids			X	X	
High Rise Buildings, 3 stories or more, bldgs. on hill			X	X	
Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools, and residential uses ~~(~~with chemicals added~~)~~	~~X~~	~~X~~	~~X~~	~~(X)~~	~~(X)~~
Irrigation Systems, such as cemeteries, golf courses, playgrounds, parks, estates, ranches, schools, and residential uses without chemicals added	X	X	X		
Laundries with under rim or bottom-fill inlets, dry cleaning, and dye works	X	X		X	X
Mobile Home and RV Parks with nonapproved waste valves		X	X	X	
Mobile Home and RV Parks with below ground level service line termination				X	
Fixing Tees with steam and water used with harmful substances ~~(unharmful)~~			~~(X)~~	X	
Fixing Tees with steam and water used without harmful substances			X		
Private Water Sources which are unmonitored				X	
Radiator-Vats				X	X
Slaughter Houses ~~(unable to eliminate or prevent cross connection)~~				X	
Car Washes using soaps and waxes ~~(recycling water)~~			X	X	
Chemical Plants				X	X
Dockside Watering Facilities, Marinas	X		X	X	X
Film Laboratories				X	X
Food Processing Plants ~~(unable to eliminate or prevent cross connections~~			X	X	X
Fertilizer Plants ~~(unable to eliminate or prevent cross connections)~~				~~(~~X~~)~~	X
Hospitals handling harmful substances ~~(unable to eliminate or prevent cross connections)~~				X	
Lab Sink using toxics (unharmful)	X	X	X	X	
Meat Packing Plants ~~(unable to eliminate or prevent cross connections)~~				X	
Medical Bldgs, clinics, laboratories, etc. ~~(unable to eliminate or prevent cross connections)~~				X	

SELECTION CHART FOR MINIMUM BACKFLOW PREVENTION DEVICES					
FACILITY~~IES~~, FIXTURES, EQUIPMENT, OR USE OF WATER	ATMOSPHERIC TYPE VACUUM BREAKER	PRESSURE TYPE VACUUM BREAKER	DOUBLE CHECK VALVE ASSEMBLY	REDUCED PRESSURE BACKFLOW PREVENTER	AIR GAP
Nonpotable Water				X	X
Oil Refinery and Petroleum Storage Facilities ~~*(unable to eliminate or prevent cross connections)*~~				X	
Sanitariums ~~*(unable to eliminate or prevent cross connections)*~~	X	X		X	
Sewage Piping or Plants ~~*(unable to eliminate or prevent cross connections)*~~				X	X
Tank Truck Fill Station				X	X
Mortuaries ~~*(unable to eliminate or prevent cross connections)*~~				X	
~~*Mortuary body washing hoses (installed at service connection)*~~	~~*X*~~	~~*X*~~		~~*(X)*~~	
Hoses that could be in contact with animal waste	X	X			
Shampoo Sprays	X	X			
Sterilizers				X	
Steam Cookers using low health risk substance			X		
Steam Cookers using ~~*harmful*~~ high health risk substance ~~*(unharmful)*~~			~~*X*~~	X	
Swim Pools, Hot Tubs, private or semiprivate	X	X		X	X
Swim Pools direct connection	X	X		X	X
Urinals	X			X	
Water Cooling or Heating Coils		X		X	
Water Closets	X			X	

X - indicates suitable protection to be required by the public water system. For facilities with multiple options, the public water system will determine the lowest degree of protection that is acceptable. ~~*(5-3-03)*~~( )

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0402

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Vol. 04-7, pages 115 through 143. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rulemaking removes a rule which regulates an activity not regulated by the federal government.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.idaho.gov.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Chris Lavelle at (208)373-0502 or clavelle@deq.state.id.us.

DATED this 18th day of November, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule making:

This proposed rule implements the provisions of the Drinking Water and Wastewater Professionals Licensing Act, Senate Bill 1279, wherein the Legislature transferred authority for the licensure of drinking water and wastewater operators from the Department of Environmental Quality to a Governor appointed Drinking Water and Wastewater Professional Board and the Idaho Bureau of Occupational Licenses. Sections 003, 005, 550, 553, 554 and 560 have been modified to delete certification requirements. Sections 555, 556, 557, 558, 559, 561 and 562 and some definitions have been deleted. Public water system owners and operators, special interest groups, and the general public may be interested in commenting on this proposed rule.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Chris Lavelle at (208) 373-0486 or clavelle@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 2nd day of June, 2004.

Paula J. Wilson

Environmental Quality Section
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

003. DEFINITIONS.
The definitions set forth in 40 CFR 141.2, revised as of July 1, 2002, are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person". (5-3-03)

~~***01. ABC**. The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards.* (4-5-00)~~

0~~2~~1. **Action Level**. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

0~~3~~2. **Administrator**. The Administrator of the United States Environmental Protection Agency.

(4-5-00)

0~~4~~3. **Annual Samples**. Samples that are required once per calendar year. (12-10-92)

0~~5~~4. **Aquifer**. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs.
(5-3-03)

0~~6~~5. **Available**. Based on system size, complexity, and source water quality, a ~~*certified*~~ properly licensed operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. ~~*(4-5-00)*~~( )

0~~7~~6. **Average Daily Demand**. The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

0~~8~~7. **Backflow**. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

0~~9~~8. **Board**. The Idaho Board of Environmental Quality. (5-3-03)

~~1~~09. **Capacity**. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe

Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. ~~*Certification and t*~~Training of ~~*the*~~ operator(s) is required, as appropriate, for the system size and complexity. ~~*(4-5-00)*~~( )

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (4-5-00)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (4-5-00)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

~~***11. Certificate**. Documentation of competency issued by the Director stating that the person (to be certified) has met requirements for a specific classification of the certification program.* (4-5-00)~~

1~~2~~0. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

1~~3~~1. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented

without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

1~~4~~2. Compositing Of Samples. The mixing of up to five (5) samples by the laboratory. (4-5-00)

1~~5~~3. Confining Layer. A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)

1~~4~~6. Confirmation Sample. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

1~~7~~5. Connection. Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

1~~8~~6. Consumer. Any person served by a public water system. (12-10-92)

1~~9~~7. Consumer Confidence Report (CCR). An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

~~20~~18. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

~~***21. Continuing Education Unit (CEU)**. An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. (4-5-00)***~~

~~22~~19. Cross Connection. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and

other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

2~~3~~0. Department. The Idaho Department of Environmental Quality. (12-10-92)

2~~4~~1. Director. The Director of the Department of Environmental Quality or his designee. (12-10-92)

2~~5~~2. Disinfection. Introduction of chlorine or other agent or process approved by the Department, in sufficient concentration and for the time required to kill or inactivate pathogenic and indicator organisms. (5-3-03)

2~~6~~3. Disinfection Profile. A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

2~~7~~4. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-16-04)

2~~8~~5. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

2~~9~~6. DWIMS. Idaho Department of Environmental Quality Drinking Water Information Management System. Replaced by SDWISS April 2001. (3-15-02)

***~~30~~*27. Enhanced Coagulation**. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

***~~31~~*28. Enhanced Softening**. The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

***~~3~~*29. Exemption**. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

3~~3~~0. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

3~~4~~1. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

3~~5~~2. GAC10. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. (4-5-00)

3~~6~~3. Groundwater System. A public water system which is supplied exclusively by a groundwater source or sources. (12-10-92)

3~~7~~4. Groundwater Under The Direct Influence Of Surface Water. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. (5-3-03)

3~~8~~5. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

3~~9~~6. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

***~~40~~*37. Inorganic**. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

***~~41~~*38. Laboratory Certification Reciprocity**. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (4-5-00)

39. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. ( )

4~~2~~0. Log. Logarithm to the base ten (10). (12-10-92)

4~~3~~1. Maximum Daily Consumption Rate. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

4~~4~~2. Maximum Hourly Demand. The greatest volume of water used in any hour

during a one (1) year period. (12-10-92)

~~4~~5~~3~~3. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-5-00)

~~4~~6~~4~~4. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

~~4~~7~~5~~5. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

~~4~~8~~6~~6. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

~~4~~9~~7~~7. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (4-5-00)

***~~50~~*~~48~~8. Nontransient Noncommunity Water System**. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)

***~~51~~*~~49~~9. Nuclear Facility**. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

~~***52. Operator Certifying Entity**. An organization that contracts with the Department to provide public drinking water operator certification services.* (4-5-00)~~

~~***53. Operating Experience**. The number of years spent at a drinking water system in performance of duties.* *(4-5-00)***~~

5~~4~~**0. Operating Shift**. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

5~~5~~**1. Operator/Owner/Purveyor Of Water/Supplier Of Water**. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (4-5-00)

~~***56. Operator Reciprocity**. Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification.* *(4-5-00)***~~

5~~7~~**2. Peak Hourly Flow**. The highest hourly flow during any day. (12-10-92)

5~~8~~**3. Person**. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

5~~9~~**4. Pesticides**. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algaecides. (12-10-92)

~~*60*~~**55. Public Notice**. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

~~*61*~~**56. Public Drinking Water System**. (4-5-00)

a. In General. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (4-5-00)

b. Connections. (4-5-00)

i. In General. For purposes of paragraph a. of this Subsection, a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: (5-3-03)

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); (4-5-00)

(2) The Director determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or (4-5-00)

(3) The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. (4-5-00)

ii. Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with paragraphs b.i.(2) and b.i.(3) of this Subsection. (5-3-03)

c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to the definition of a public drinking water system by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as set forth in paragraphs a. and b. of this Subsection) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. (5-3-03)

~~*62*~~57. **Public Water System/Water System/System**. Means "public drinking water system". (4-5-00)

~~***63. Reciprocity**. A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho's Certification Program provision. (4-5-00)***~~

~~*64*~~58. **Repeat Compliance Period**. Any subsequent compliance period after the initial compliance period. (12-10-92)

~~*6*~~59. **Responsible Charge (RC)**. Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. (4-5-00)

6~~6~~0. **Responsible Charge Operator**. An operator of a public drinking water system, designated by the system owner, who holds a valid ~~*certificate*~~ license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. ~~*(3-16-04)*~~( )

6~~7~~1. **Sampling Point**. The location in a public water system from which a sample is drawn. (12-10-92)

6~~8~~2. Sanitary Defects. Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

6~~9~~3. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

a. Source; (4-5-00)

b. Treatment; (4-5-00)

c. Distribution system; (4-5-00)

d. Finished water storage; (4-5-00)

e. Pumps, pump facilities, and controls; (4-5-00)

f. Monitoring and reporting and data verification; (4-5-00)

g. System management and operation; and (4-5-00)

h. Operator compliance with state requirements. (4-5-00)

***~~70~~*64. SDWIS-State**. An acronym that stands for "Safe Drinking Water Information System-State Version". It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. See also the definition of DWIMS. (5-3-03)

***~~71~~*65. Significant Deficiency**. As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

***~~72~~*66. Spring**. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

***~~73~~*67. Substitute Responsible Charge Operator**. An operator of a public drinking water system who holds a valid ~~*certificate*~~ license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. ~~*(3-16-04)*~~( )

***~~74~~*68. Surface Water System**. A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water.

Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

~~75~~69. **Specific Ultraviolet Absorption (SUVA)**. SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV254) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/l). (4-5-00)

7~~6~~0. **Total Organic Carbon (TOC)**. Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

7~~7~~1. **Transient Noncommunity Water System**. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

7~~8~~2. **Treatment Facility**. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

7~~9~~3. **Turbidity**. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

~~80~~74. **Uncovered Finished Water Storage Facility**. An uncovered tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection. (5-3-03)

~~81~~75. **Unregulated Contaminant**. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

~~*82. Validated Examination. An exam that is independently reviewed by subject matter experts to ensure that the exam is based on an operator job analysis and is relevant and related to the classification of the system or facility.* (3-16-04)~~

~~83~~76. **Variance**. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the determent does not cause an unreasonable risk to public health. (12-10-92)

~~84~~77. **Very Small Public Drinking Water System**. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical

treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

8578**. Volatile Organic Chemicals (VOCs)**. VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

8679**. Vulnerability Assessment**. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

8***7***0**. Waiver**. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, "waiver" means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

d. For purposes of Subsection 559.02 (Professional Growth Requirement), "waiver" means the deferral of the continuing education units (CEU) required for operator certification renewal for any certified operator deployed out of state or country due to active military service, when such deployment makes it impossible for the operator to accrue the required units by the certification renewal date (March 1). (3-16-04)

8***8***1**. Water For Human Consumption**. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms "culinary water", "drinking water," and "potable water" are frequently used as synonyms. (5-3-03)

8***9***2**. Water Main**. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections. The collection of water mains within a given water supply is called the distribution system. (5-3-03)

90. Water Distribution Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public drinking water distribution system in order to safeguard the public health and environment. (3-16-04)

91. Water Treatment Operator. The person who is employed, retained, or appointed to conduct thetasks associated with routine day to day operation and maintenance of a public drinking water treatment facility in order to safeguard the public health and environment. (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 550 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (5-3-03)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

c. Waiver of monitoring requirements is addressed in Subsection 100.07. (5-3-03)

~~***d.*** *The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsection 558.09 for certified operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the annual renewal date. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsection 558.09 for the certification renewal cycle in progress at the time the operator returns to the state.* *(5-3-03)*~~

02. Variances. (5-3-03)

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: (5-3-03)

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (5-3-03)

ii. Alternative sources of water are not reasonably available to the system. (5-3-03)

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (5-3-03)

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: (5-3-03)

i. The system serves three thousand three hundred (3,300) or fewer persons; (5-3-03)

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (5-3-03)

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (5-3-03)

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (5-3-03)

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the state, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (5-3-03)

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: (5-3-03)

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (5-3-03)

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (5-3-03)

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (5-3-03)

d. The granting of an exemption will not result in an unreasonable risk to health; (5-3-03)

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (5-3-03)

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (5-3-03)

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (5-3-03)

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. (5-3-03)

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (5-3-03)

06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

550. DESIGN STANDARDS FOR PUBLIC DRINKING WATER SYSTEMS.

01. System Design. Unless otherwise specified by the Department, the design of new, or modifications to existing, public drinking water systems shall be in conformance with "Recommended Standards for Water Works, A Report of the Committee of the Great Lakes-Upper Mississippi River Board of Department Sanitary Engineers," as set forth in Subsection 002.02.c. and with recommended changes and additions to this document as found in the "USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources," as set forth in Subsection 002.02.g. (7-1-97)

02. Materials. Materials which are used to construct public drinking water systems and which have water contact surfaces must comply with applicable AWWA standards and ANSI/ NSF standard 61 or NSF standard 53 or 58, unless otherwise approved by the Department on a site specific basis. Corrosion control shall be taken into account during all aspects of public water system design. (5-3-03)

03. Wells. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (12-10-92)

a. Prior to drilling, the site of a PWS well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation

report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (5-3-03)

i. An evaluation of the potability and quality of anticipated groundwater. (5-3-03)

ii. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)

iii. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

iv. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells, springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models. (5-3-03)

v. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)

vi. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

b. Each well shall be located a minimum of fifty (50) feet from any potential source of contamination and no closer to specified sources of contamination than set forth in Subsection 900.01; in vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination; (5-3-03)

c. Each well shall comply with the minimum Well Construction Standards and with the permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f.; except that no public water system well shall have less than fifty-eight (58) feet of annular seal of not less than two (2) inches thickness, unless: (5-3-03)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

d. All tools, bits, pipe, and other materials to be inserted in the borehole must be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, as set forth in Subsection 002.02.f. This applies to new well construction and repair of existing wells. (5-3-03)

e. Upon completion of a groundwater source, and prior to its use as drinking water,

the following information and data must be submitted by the water system to the Department: (5-3-03)

i. A copy of all well logs; (12-10-92)

ii. Results of test pumping, as specified in Subsection 550.03.f.; (5-3-03)

iii. As constructed plans showing at least the following: (12-10-92)

(1) Annular seal, including depth and sealant material used and method of application; (5-3-03)

(2) Casing that meets the requirements set forth in Section 3.2.5.4 of Recommended Standards for Water Works, including weights and thicknesses specified in Table 1 of that publication; (5-3-03)

(3) Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

(4) Pump location; and (12-10-92)

(5) For community water systems, a permanent means for measuring water level. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time well construction is completed. (5-3-03)

iv. Other information as may be specified by the Department. (12-10-92)

v. Sampling results for iron, manganese, corrosively, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsection 551.01. (5-3-03)

f. Test pumping. Upon completion of a groundwater source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

i. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown has stabilized. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown has stabilized. In either case, if the drawdown does not stabilize, the pumping must continue for at least seventy-two (72) consecutive hours. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, the well design shall be re-evaluated and submitted to the Department for approval. (5-3-03)

ii. Fifteen (15) minutes after the start of the test pumping, the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or other means acceptable to the Department. If sand production exceeds

five (5) ppm, the well shall be screened gravel packed, and re-developed. (5-3-03)

iii. The following data shall be provided: (5-3-03)

(1) Static water level in the well prior to test pumping; (5-3-03)

(2) Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

(3) Water level in the well recorded at regular intervals during pumping; (5-3-03)

(4) Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

(5) Depth at which the test pump was positioned in the well; (5-3-03)

(6) Test pump capacity and head characteristics; (5-3-03)

(7) Sand production data. (5-3-03)

(8) Any available results of analysis based on the drawdown and recovery test pertaining to aquifer properties, sustained yield, and boundary conditions affecting drawdown. (5-3-03)

iv. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 550.03.d.iii. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (5-3-03)

g. A smooth-nosed sample tap shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. Any threaded taps installed in the wellhouse must be equipped with an appropriate backflow prevention device. (5-3-03)

h. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste via an approved air gap at a location prior to the first service connection; (5-3-03)

i. A pressure gauge shall be provided at all installations; (12-10-92)

j. A totalizing flow meter shall be installed on the discharge line of each well. An accessible check valve shall be installed above ground in the discharge line of each well; (5-3-03)

k. All wells except flowing artesian wells shall be vented, with the open end of the

vent screened and terminated downward at least eighteen (18) inches above the floor of the pump house. (12-10-92)

l. The following requirements apply to well casings and seals: (12-10-92)

i. Casings shall extend a minimum of twelve (12) inches above the finished ground surface and six (6) inches above the well house floor. (12-10-92)

ii. Wells shall be cased and sealed in such a manner that surface water cannot enter the well. (12-10-92)

iii. A watertight seal shall be provided at the top of the well casing, and shall not allow water to enter the well. (12-10-92)

iv. Wells completed in unconsolidated water bearing formations shall be constructed to prevent caving of the walls of the well and sand pumping. Screens and/or gravel packs shall be provided where fine grained materials such as sands are being developed as the source of water. (12-10-92)

m. The following requirements apply to well houses: (12-10-92)

i. Well houses shall be protected from flooding and be adequately drained. An electrically powered ventilation fan or automated air flow system shall be provided to remove excess heat and moisture during peak summer temperatures. If the well operates year round, a thermostatically regulated heater shall also be installed to prevent moisture buildup during cold weather. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (5-3-03)

ii. Well houses shall be provided with a locking door or access to prohibit unauthorized entrance. Plans and specifications for well houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (5-3-03)

iii. Well houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials. (12-10-92)

iv. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination. (12-10-92)

v. Sumps for well house floor drains shall not be closer than thirty (30) feet from the well. (12-10-92)

vi. Pitless adapters or pitless units: (12-10-92)

(1) Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

(2) Shall be designed, constructed and installed to be watertight including the cap,

cover, casing extension and other attachments. (12-10-92)

(3) Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," as set forth in Subsection 002.02.d., or other procedure approved by the Department shall be followed. (5-3-03)

n. Wells shall not be located in pits. Exceptions to Subsection 550.03.l. will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (12-10-92)

o. A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (12-10-92)

p. New community water systems served by ground water and constructed after July 1, 1985, or existing community water systems served by ground water that are substantially modified after July, 2002, shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) homes or equivalent. The second source shall be capable of producing at least eight hundred (800) gallons per day per service connection. The Department shall consider a system to be "substantially modified" when there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the following factors: (5-3-03)

i. Population served or number of service connections; (5-3-03)

ii. Length of water mains; (5-3-03)

iii. Peak or average water demand per connection. (5-3-03)

q. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (12-10-92)

r. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other toxic or hazardous materials shall be stored on a well lot, except that: (5-3-03)

i. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

ii. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

iii. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be double-walled. The tank must be above ground and may be contained within the structural base of the generator unit. A certified water system operator shall be present during

filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (5-3-03)

iv. Should the internal combustion engine be located within the well house, the floor of the well house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the well house. (5-3-03)

v. A spill containment structure shall surround all fuel tanks and be sized to contain one hundred fifty percent (150%) of the fuel tank volume. (5-3-03)

04. Springs. For new spring sources, the Department may require a site evaluation report as set forth for wells in Subsection 550.03.a. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (5-3-03)

a. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust; (12-10-92)

b. A sample tap shall be provided; (12-10-92)

c. A flow meter or other flow measuring device shall be provided; and (12-10-92)

d. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water and drainage ditches shall be diverted from this area. (5-3-03)

05. Surface Sources And Groundwater Sources Under The Direct Influence Of Surface Water. (10-1-93)

a. Design Criteria. (12-1-92)

i. The system shall ensure that filtration and disinfection facilities for surface water or groundwater directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. (12-10-92)

ii. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts and one (1) log removal of viruses, except as allowed under Subsection 550.05.b.iii.; and (10-1-93)

iii. Disinfection facilities shall be designed, constructed and operated so as to achieve at least one half (0.50) log inactivation of Giardia lamblia cysts; and (10-1-93)

(1) Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

(2) Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

(3) Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

(4) Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

iv. Higher levels of disinfection than specified under Subsection 550.05.a.iii. may be required by the Department in order to provide adequate protection against giardia and viruses. (10-1-93)

v. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. (12-10-92)

vi. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (12-10-92)

vii. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter bed. (5-3-03)

viii. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (12-10-92)

ix. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (12-10-92)

b. Filtration technology. (12-10-92)

i. The purveyor shall select a filtration technology acceptable to the Department. (12-10-92)

ii. Conventional, direct, membrane, slow sand and diatomaceous earth filtration technologies are generally acceptable to the Department on a case-by-case basis. (5-3-03)

iii. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)

(1) That the filtration technology: (12-10-92)

(a) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)

(b) Removes or inactivates at least ninety-nine (99%) percent (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. (12-10-92)

(2) Using field studies or other means acceptable to the Department, that the filtration technology: (12-10-92)

(a) In combination with disinfection treatment, consistently achieves at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (5-3-03)

(b) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

c. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (12-10-92)

i. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

ii. The design and operation of the pilot study shall be overseen by a licensed professional engineer. (12-10-92)

iii. The system's pilot study plan shall identify at a minimum: (12-10-92)

(1) The objectives of the pilot study; (12-10-92)

(2) Pilot filter design; (12-10-92)

(3) Water quality and operational parameters to monitor; (12-10-92)

(4) Amount of data to collect; and (12-10-92)

(5) Qualifications of the pilot plant operator. (10-1-93)

iv. The system shall ensure that the pilot study is: (12-10-92)

(1) Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

(2) Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)

(3) Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)

(4) Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

d. New systems constructed after July 1, 1985, are required to install redundant disinfection components as required to maintain constant application of disinfectant whenever water is being delivered to the distribution system. (5-3-03)

06. Distribution System. Any supplier of water for a public water system shall ensure that the distribution system complies with all of the following requirements: (12-10-92)

a. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (12-10-92)

b. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (5-3-03)

c. All source pumps and booster pumps connected directly to the distribution system shall have instantaneous and totalizing flow meters unless deemed unnecessary by the Department in a particular application. The Department may require larger water systems to provide a means of automatically recording the total water pumped. (5-3-03)

d. Booster pumps must comply with the following: (12-10-92)

i. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (5-3-03)

ii. Booster pumps located on suction lines directly connected to any storage reservoirs shall be supplied with an automatic cutoff when pressure is equal to or less than two and one-half (2.5) psi. (12-10-92)

iii. Buildings enclosing booster pump stations shall be provided with an electrically powered ventilation fan or automated air flow system to remove heat and moisture during peak summer temperatures. If the facility is operated year round, a thermostatically regulated heater shall be installed to prevent moisture buildup during cold weather. (5-3-03)

e. Pipe materials and standards will comply with the following: (12-10-92)

i. Pipe, packing and jointing materials shall be manufactured, installed and tested in conformance with the current standards of the American Water Works Association, as set forth in Subsection 002.02.j., or other standards approved in writing by the Department. (7-1-97)

ii. Pipe shall be manufactured of materials resistant internally or externally to corrosion, and not imparting tastes, odors, color or any contaminant into the system. (12-10-92)

iii. All distribution system appurtenances shall comply with AWWA Standards, as set forth in Subsection 002.02.j. (5-3-03)

f. Fire hydrants shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (5-3-03)

g. Water and non-potable water mains shall be separated by a horizontal distance no less than ten (10) feet. In any instance where such separation is not achievable, the following standards shall be met: (5-3-03)

i. The water and non-potable water mains shall be separated by at least six (6) horizontal feet measured between the outside walls of the pipes, and the sewer main shall be constructed to water main standards; and (5-3-03)

ii. The water main shall be a minimum of eighteen (18) inches above the sewer main. (12-10-92)

h. The requirements for vertical separation of water and sewer mains are as follows: (5-3-03)

i. At any point where the non-potable water and water mains cross, they shall be separated by a vertical distance of no less than eighteen (18) inches. (5-3-03)

ii. At any point where the non-potable water main crosses above the water main, the non-potable water main shall be supported to prevent settling. (5-3-03)

iii. At any point where the non-potable water and water mains cross, the water main shall be centered at the crossing so that the joints will be an equal distance and as far as possible from the non-potable water main. (5-3-03)

iv. If the water main is below the non-potable water main, the non-potable water main shall be constructed of materials conforming to water main standards if the eighteen (18) inch vertical separation cannot be maintained. (5-3-03)

v. In lieu of constructing or reconstructing the non-potable water main either the non-potable water main or water main may be encased with a sleeving material acceptable to the Department for a distance of ten (10) horizontal feet on both sides of the crossing. (5-3-03)

i. All other pipelines which carry nonpotable liquids shall meet the minimum separation requirements of Subsections 550.06.g. and 550.06.h. (5-3-03)

j. A minimum horizontal distance of twenty-five (25) feet shall be maintained between a subsurface sewage disposal system and any water distribution pipe. (12-10-92)

k. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of five (5) feet per second. (5-3-03)

l. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association standards as set forth in Subsection 002.02.j. (7-1-97)

m. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (5-3-03)

n. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. (5-3-03)

o. All new public water systems that are constructed where topographical relief may affect water pressure at the customers' premises shall provide the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and ii., plus a static compensation from the elevation of the main to the elevation of each building site. (5-3-03)

i. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

ii. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

07. Cross Connection. There shall be no connection between the distribution system and any pipes, pumps, hydrants, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. (5-3-03)

a. All suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance of toxic or hazardous substances to the system. The program will include: (5-3-03)

i. An inspection once a year of all facilities listed in Subsection 900.02 (Table 2) to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-3-03)

ii. Required installation and operation of adequate backflow prevention assemblies. A list of minimum recommended devices for various facilities is provided in Subsection 900.02 (Table 2). (5-3-03)

iii. Annual inspections and testing of all installed backflow prevention assemblies by a tester ~~*certified by the Department, or*~~ licensed by a ~~*certifying*~~ licensing authority recognized by the Department. ~~*Testers are to be re-certified every two (2) years.*~~ ~~*(5-3-03)*~~( )

iv. Discontinuance of service to any facility where suitable backflow protection has

not been provided for a cross connection. (12-10-92)

v. If double check valves and/or reduced pressure principle backflow prevention assemblies are used, they must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research or meet American Water Works Association C-510 or C-511 standard, or another equal test approved by the Department. (5-3-03)

vi. If atmospheric vacuum breakers and pressure vacuum breakers are used, they shall be marked approved by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (10-1-93)

vii. Resilient seated shutoff valves shall be used after the effective date of these rules when double check valves, reduced pressure backflow prevention assemblies, and pressure vacuum breakers are installed. (5-3-03)

b. All suppliers of water for non-community water systems shall ensure that cross-connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected for functionality on a regular basis by a ~~*certified*~~ licensed tester, as specified in Subsection 550.07.a.iii. ~~*(5-3-03)*~~( )

08. Water Storage. Storage reservoirs shall be constructed and maintained so that the following requirements are met: (12-10-92)

a. All storage reservoirs shall be protected from flooding; (12-10-92)

b. Stored water shall be protected from contamination; (12-10-92)

i. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (5-3-03)

ii. No storage tank or clear well located below ground level is allowed within fifty (50) feet of a sanitary sewer or septic tank. However, if the sanitary sewer is constructed to water main standards, the minimum separation distance is ten (10) feet. (5-3-03)

c. All storage reservoirs shall have watertight roofs or covers and be sloped so that water will drain; (12-10-92)

d. Manholes shall be fitted with an overlapping watertight locked cover and be at least four (4) inches above the surface of the roof. At least two (2) manholes located above the water line shall be provided where space permits. (5-3-03)

e. Overflows and drains shall have free fall discharges which are screened and shall not be connected to a sewer (storm or sanitary); (12-10-92)

f. Any vent shall extend twelve (12) inches above the roof and be constructed and screened to exclude rain, snow, birds, animals, insects, dust and other potential sources of

contamination; (12-10-92)

g. The bottom of any reservoir located below the ground surface shall be constructed a minimum of four (4) feet above the high groundwater table; and (12-10-92)

h. There shall be a minimum distance of fifty (50) feet between any buried or partially buried storage reservoir and any sanitary sewers, storm sewers, or any other source of contamination. The area around ground level reservoirs shall be graded in a manner that will prevent standing water within ten (10) feet. (5-3-03)

i. Hydroneumatic (pressure) tanks shall be acceptable for small water systems serving up to one hundred fifty (150) homes. (5-3-03)

j. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (5-3-03)

k. All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (5-3-03)

09. Disinfection. Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system will be flushed and disinfected in accordance with American Water Works Association Standards, as set forth in Subsection 002.02.j., prior to being placed into service. (7-1-97)

10. Violations. Any failure to comply with any provision contained in Section 550 shall be considered a design or construction defect. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

553. CLASSIFICATION OF WATER SYSTEMS.

01. System Classification Require~~ment~~d. ~~*All*~~ The Department shall classify community, ~~*and*~~ nontransient noncommunity, ~~*public drinking*~~ and surface water systems ~~*will be classified*~~ based on indicators of potential health risks. ~~*(4-5-00)*~~( )

a. ~~*The Department shall develop classification criteria rating forms designed to obtain details about criteria in Subsection 553.02.*~~ The owner or designee of every community and nontransient noncommunity public water system shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. ~~*(3-16-04)*~~( )

~~*i. The owner or designee of every community and nontransient noncommunity public drinking water system shall complete the classification criteria rating form(s) for the distribution system.* (3-16-04)~~

~~*ii. For any community or nontransient noncommunity public drinking water system utilizing a treatment facility(ies), the owner or designee must also complete the classification criteria rating form(s) provided by the Department for the drinking water treatment system(s).* (3-16-04)~~

b. ~~*The Department shall review the classification criteria rating forms and classify the systems.*~~ The owner or designee of all surface water systems shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. ~~*(3-16-04)*~~( )

~~***c.*** *The Department shall review system classifications at least every five (5) years and make revisions to reflect changed conditions, if any.* (3-16-04)~~

02. Classification Criteria. ~~*Community and nontransient noncommunity public drinking water treatment facilities and distribution s*~~Systems shall be classified under a system that uses the following criteria: ~~*(3-16-04)*~~( )

a. Complexity, size, and type of source water for treatment facilities. (3-16-04)

b. Complexity and size of distribution systems. (4-5-00)

c. Other criteria deemed necessary to completely classify systems. (4-5-00)

d. The Department shall develop guidelines for applying the criteria set forth in Section 553. (3-16-04)

554. ~~*CERTIFICATION OF WATER SYSTEM OPERATORS*~~ LICENSE REQUIREMENTS.

01. ~~*System*~~ Licensed Operator ~~*Certification*~~ Require~~*ment*~~d. ( )

a. Owners of all community and nontransient noncommunity public drinking water systems must place the direct supervision of their drinking water system, including each treatment facility and/or distribution system, under the responsible charge of a~~*n*~~ properly licensed operator. ~~*(3-16-04)*~~( )

b. Owners of all surface water systems must place the direct supervision of their public drinking water system under the responsible charge of a properly licensed operator. ( )

02. Responsible Charge Operator ~~*Certification*~~ License Requirement. An operator in responsible charge of a ~~*community or a nontransient noncommunity*~~ public drinking water system ~~*in Idaho*~~ must hold a valid ~~*certification*~~ license equal to or greater than the classification of ~~*their*~~ the public water system~~*. including each treatment facility, where present, and distribution system as determined by the Department*~~ where the responsible charge operator is in responsible charge. ~~*(3-16-04)*~~( )

03. Substitute Responsible Charge Operator License Requirement. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall

be designated to replace the responsible charge operator. A substitute responsible charge operator of a public water system must hold a valid license equal to or greater than the classification of the public water system where the substitute responsible charge operator is in responsible charge.
~~(3-16-04)~~( )

04. Shift Operator Requirement. Any ~~community or nontransient noncommunity~~ public drinking water system subject to these requirements with multiple operating shifts must have a designated ~~certified public drinking water system~~ properly licensed operator available for each operating shift. An on-duty designated shift operator does not replace the requirements in Subsections 554.01 and 554.03 for responsible charge operator coverage during all operating shifts. ~~(3-16-04)~~( )

05. Water Operator ~~Certification~~ License Requirement. All operating personnel at ~~community and nontransient noncommunity~~ public drinking water systems subject to these requirements making process control/ system integrity decisions about water quality or quantity that affect public health must hold a valid and current ~~certificate~~ license. ~~(3-16-04)~~( )

~~***06. Compliance Deadline**. All community and nontransient noncommunity public drinking water systems addressed in these rules shall be in compliance with these rules within two (2) years of April 15, 2000. (3-10-00)***~~

~~***07. Qualifications For Certification**. To qualify for a certificate an applicant must meet requirements of employment, education, experience and examination as described in Sections 556 and 557. Applicants may also receive certification through reciprocity as provided in Section 558. (3-16-04)***~~

~~***08. Administration Of The Certification Program**. Administration of all aspects of the drinking water system operator certification program in Idaho shall be the responsibility of the Department. All administrative activities except enforcement may be contracted to an operator certifying entity. (3-10-00)***~~

~~***09. Contractor Activities**. All administrative activities contracted to an operator certifying entity will be carried out in accordance with these rules. (3-10-00)***~~

~~***555. GRANDPARENTING.***~~

~~***01. Grandparenting Certificate**. The Department shall not accept applications for grandparent certification. Operators holding an existing grandparent certificate must comply with all applicable provisions of these rules in order to maintain their certification. If an operator's grandparent certification lapses, is revoked, or is otherwise not renewed, the operator will be required to meet the current standards for certification set out in these rules. (3-16-04)***~~

~~***02. Grandparent Professional Growth Requirement**. In order to maintain an existing grandparent certification, grandparented operators must: (3-16-04)***~~

~~***a.** In the first certification renewal cycle, complete a one (1) time training that covers all information included by the qualifying certification exam for the certification class the operator holds; (3-16-04)***~~

~~***b.*** *Submit proof of completion of the required one (1) time training; and* *(3-16-04)*~~

~~***c.*** *Following the first renewal cycle, the operator must meet the professional growth requirements in Subsection 559.02.* *(3-16-04)*~~

~~***556. CERTIFICATION REQUIREMENTS FOR A WATER TREATMENT OPERATOR.*** *Individuals requesting certification shall submit an application to the Department and meet the criteria in Section 556 to qualify for a certification classification in water treatment. Applicants shall be subject to an application fee not to exceed two hundred dollars ($200) plus the actual cost of testing.* *(3-16-04)*~~

~~***01. Employment Requirement.*** *Except for Operator-In-Training Classification, applicants for certification must be currently employed or working in the drinking water field.* *(3-16-04)*~~

~~***02. Examination Requirement.*** *Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgement required for the established certification classes. Examinations will be administered in accordance with established examination procedures.* *(3-16-04)*~~

~~***03. Education And Experience Requirements.*** *(3-16-04)*~~

~~***a.*** *Basic Education and Experience Certification Requirements.* *(3-16-04)*~~

~~*i. To qualify for an Operator-In-Training Water Treatment Certificate, an operator must have a high school diploma or GED and pass an Operator-In-Training exam. After passing an Operator-In-Training exam, a "one (1) time" non-renewable certificate of "Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Water Treatment Certificate upon written request to the Director with proof of twelve (12) months of operating experience in a Class I or higher water treatment facility.* *(3-16-04)*~~

~~*ii. To qualify for a Class I certificate an operator must have a high school diploma or GED and one (1) year of acceptable operating experience in a Class I or higher treatment facility.* *(3-16-04)*~~

~~*iii. To qualify for a Class II certificate an operator must have a high school diploma or GED and three (3) years of acceptable operating experience in a Class I or higher treatment facility.* *(3-16-04)*~~

~~*iv. To qualify for a Class III certificate an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience in a Class II or higher treatment facility, including two (2) years active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class.* *(3-16-04)*~~

~~*v. To qualify for a Class IV certificate an operator must have a high school diploma*~~

~~or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience in a Class III or higher treatment facility, including two (2) years of active, daily, on-site charge of personnel or a major segment of a system in the same or next lower class.~~ ~~(3-16-04)~~

~~**b.** Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below:~~ ~~(4-5-00)~~

~~i. For Class I, no substitution for operating experience shall be permitted.~~ ~~(3-16-04)~~

~~ii. For Class II, a maximum of one and one-half (1 ½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1 ½) years of operating experience.~~ ~~(4-5-00)~~

~~iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.~~ ~~(3-16-04)~~

~~iv. Education substituted for operating experience shall not also be applied to education requirement.~~ ~~(3-16-04)~~

~~v. One (1) year of post high school education, other than described in Subsections 556.03.b.ii. and 556.03.b.iii. may be substituted for one (1) year experience, up to a maximum of fifty percent (50%) of the required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.~~ ~~(3-16-04)~~

~~**c.** Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below:~~ ~~(3-16-04)~~

~~i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation.~~ ~~(4-5-00)~~

~~ii. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge equals one (1) post high school education.~~ ~~(3-16-04)~~

~~**d.** Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following:~~ ~~(3-16-04)~~

~~i. Experience as an environmental or operations consultant;~~ ~~(4-5-00)~~

~~ii. Experience in an environmental or engineering branch of federal, state, county, or~~

~~local government;~~ ~~(4-5-00)~~

~~iii. Experience as a wastewater collection system operator;~~ ~~(4-5-00)~~

~~iv. Experience as a wastewater treatment plant operator;~~ ~~(4-5-00)~~

~~v. Experience as a water distribution system operator and/or manager;~~ ~~(4-5-00)~~

~~vi. Experience as a water treatment plant operator; or~~ ~~(4-5-00)~~

~~vii. Experience in waste treatment operation and maintenance.~~ ~~(4-5-00)~~

~~**e.** Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies:~~ ~~(3-16-04)~~

~~i. High School - High School diploma, a GED, or other equivalent.~~ ~~(3-16-04)~~

~~ii. College - Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields).~~ ~~(3-16-04)~~

~~iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college.~~ ~~(3-16-04)~~

~~**557. CERTIFICATION REQUIREMENTS FOR A WATER DISTRIBUTION OPERATOR.** Individuals requesting certification shall submit an application to the Department and meet the criteria in Section 557 to qualify for a certification classification in water distribution. Applicants shall be subject to an application fee not to exceed two hundred dollars ($200) plus the actual cost of testing.~~ ~~(3-16-04)~~

~~**01. Employment - Requirement**. Except for Operator-In-Training Classification, applicants for certification must be currently employed or working in the drinking water field.~~ ~~(3-16-04)~~

~~**02. Examination Requirement**. Applicants must pass a written validated examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgment required for the established certification classes. Examinations will be administered in accordance with established examination procedures.~~ ~~(3-16-04)~~

~~**03. Education And Experience Requirements**.~~ ~~(3-16-04)~~

~~**a.** Basic Education and Experience Certification Requirements.~~ ~~(3-16-04)~~

~~i. To qualify for an Operator-In-Training Water Distribution Certificate, an operator must have a high school diploma or GED and pass either a Very Small Water System Operator-In-Training exam or a Class I Operator-In-Training exam.~~ ~~(3-16-04)~~

~~*(1) After passing a Very Small Water System Operator-In-Training exam, a "one (1) time" non- renewable certificate of "VSWS Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working six (6) months in the field and with no further testing required, the VSWS Operator-In-Training will be issued a VSWS Certificate upon written request to the Director with proof of six (6) months of operating experience in a VSWS or higher water distribution system.* (3-16-04)~~

~~*(2) After passing a Class I Operator-In-Training exam, a "one (1) time" non-renewable certificate of "Class I Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Class I Operator-In-Training will be issued a Class I Certificate upon written request to the Director with proof of twelve (12) months of operating experience in a Class I or higher water distribution system.* (3-16-04)~~

~~*ii. To qualify for a Very Small Public Drinking Water System certificate, an operator must have a high school diploma or GED and six (6) months of acceptable experience operating a very small water system or a higher distribution system.* (3-16-04)~~

~~*iii. To qualify for a Class I certificate, an operator must have a high school diploma or GED and one (1) year of acceptable operating experience in a Class I or higher distribution system.* (3-16-04)~~

~~*iv. To qualify for a Class II certificate, an operator must have a high school diploma or GED and three (3) years of acceptable operating experience.* (3-16-04)~~

~~*v. To qualify for a Class III certificate, an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience.* (3-16-04)~~

~~*vi. To qualify for a Class IV certificate, an operator must have a high school diploma or GED; four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience.* (3-16-04)~~

~~***b.** Substituting Education for Experience. Applicants may substitute education for operating and responsible charge experience as specified below:* (3-16-04)~~

~~*i. For Very Small Water System and Class I, no substitution for operating experience shall be permitted.* (3-16-04)~~

~~*ii. For Class II, a maximum of one and one-half (1½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience.* (3-16-04)~~

~~*iii. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience.* (3-16-04)~~

~~*iv. Education substituted for operating experience shall not also be applied to education requirement.* (3-16-04)~~

~~*v. One (1) year of post high school education, other than described in Subsections 557.3.b.ii. and 557.03.b.iii. may be substituted for one (1) year experience, up to a maximum of fifty percent (50%) of the required operating or active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class.* (3-16-04)~~

~~***c.** Substituting Experience for Education. Where applicable, operating and responsible charge experience or operating and active, daily, on-site charge of personnel or a major segment of a system or facility in the same or next lower class experience may be substituted for education as specified below:* (3-16-04)~~

~~*i. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation.* (3-16-04)~~

~~*ii. For Class III and IV, responsible charge experience may be substituted for post high school education on a two (2) for one (1) basis: two (2) years responsible charge equals one (1) post high school education.* (3-16-04)~~

~~***d.** Substituting Experience for Experience. Where applicable, up to one-half (½) of the operating experience requirement for Class II, III and IV may be substituted for experience that includes, but is not limited to, the following:* (3-16-04)~~

~~*i. Experience as an environmental or operations consultant;* (3-16-04)~~

~~*ii. Experience in an environmental or engineering branch of federal, state, county, or local government;* (3-16-04)~~

~~*iii. Experience as a wastewater collection system operator;* (3-16-04)~~

~~*iv. Experience as a wastewater treatment facility operator;* (3-16-04)~~

~~*v. Experience as a water distribution system operator and/or manager;* (3-16-04)~~

~~*vi. Experience as a water treatment plant operator; or* (3-16-04)~~

~~*vii. Experience in waste treatment operation and maintenance.* (3-16-04)~~

~~***e.** Equivalency Policy for Education or Experience Substitutions. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies:* (3-16-04)~~

~~*i. High School - High School diploma, a GED, or other equivalent.* (3-16-04)~~

~~*ii. College – Thirty-five (35) credits equals one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields).* (3-16-04)~~

iii. Continuing Education Units (CEU) for relevant operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equals one (1) CEU; forty-five (45) CEUs equals one (1) year of college. (3-16-04)

558. RECIPROCITY REQUIREMENTS.
Individuals requesting certification by reciprocity shall submit an application to the Department. The Director may waive examination requirements and issue a certificate to applicants holding certificates or licenses issued by other States which have equivalent certification requirements upon presentation of proof of such licensing and credentials consistent with Idaho certification requirements. Applicants shall be subject to an application certification fee to cover processing costs not to exceed two hundred dollars ($200). (3-16-04)

559. CERTIFICATE ISSUANCE AND RENEWAL REQUIREMENTS.

01. Certificate Issuance. A renewal certificate signed by the Director will be issued to the applicant, designating his or her level of operating competency upon satisfaction of the requirements in one (1) or more of the following sections: (3-16-04)

a. Section 555, Grandparenting; (3-16-04)

b. Section 556, Certification Requirements for a Water Treatment Operator; (3-16-04)

c. Section 557, Certification Requirements for a Water Distribution Operator; (3-16-04)

d. Section 558, Reciprocity Requirements; and (3-16-04)

e. Section 559, Certificate Issuance and Renewal Requirements. (3-16-04)

02. Certificate Renewal. Operators shall be subject to payment of fees and professional growth requirements in accordance with the following criteria, to qualify for certificate renewal: (3-16-04)

a. Renewal fees shall not exceed two hundred dollars ($200) for each two (2) year period. (3-16-04)

b. Certificates shall be valid for two (2) years, beginning on March 1 of the year of issuance. (3-16-04)

c. An operator shall submit satisfactory evidence of completion of approved training of a minimum of one point two (1.2) CEUs as a condition for renewal of the certificate. (3-16-04)

d. A Water System Operator holding more than one (1) certificate issued under these rules need only complete the training required to satisfy renewal requirements for one (1) of these water certificates. (3-16-04)

~~***03. Invalidation Of Certificates**. Certificates for which the renewal fees and evidence of completion of approved training, as referenced in Subsection 559.02, are not received within sixty (60) days after the expiration date are invalid. (3-16-04)***~~

~~***04. Renewal Of Invalidated Certificates**. Water System Operators whose certificates are invalidated may renew the certification by applying for renewal within two (2) years of the date of invalidation. The application shall include appropriate proof of competency and applicable reinstatement fees. Certificates that remain invalidated for two (2) years or more shall not be renewed. (3-16-04)***~~

~~***05. Recertification**. Water System Operators who have failed to renew invalidated certificate(s) for two (2) years or more are not eligible for renewal and must recertify. (3-16-04)***~~

555. -- 559. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~***561. PENALTIES.***~~
~~*The Director may assess penalties in accordance with the following provisions: (4-5-00)*~~

~~***01. General Authority**. The Department shall enforce these rules and seek those remedies as provided in Title 39, Chapter 1, Idaho Code. (3-16-04)***~~

~~***02. Falsification And Forgery**. Any person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office within this state, which instrument, if genuine, might be filed or registered, or recorded under any law of this state, or of the United States, is guilty of a felony. Section 18-3203, Idaho Code. (3-16-04)***~~

~~***03. Civil Penalties**. Pursuant to Section 39-108, Idaho Code, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense and for continuing violations, each day's violation is separate and distinct. (4-5-00)***~~

~~***562. SUSPENSION OR REVOCATION.***~~

~~***01. Suspend Or Revoke An Operator's Certificate**. The Director may suspend or revoke a water operator's certificate following notice and pending an opportunity for a hearing before the Board when any of the following conditions are found: (3-16-04)***~~

~~***a.** The individual holding the water certificate has engaged in misconduct in the performance of his or her operator duties such as fraud, falsification of an application, or falsification of operating records. (3-16-04)*~~

~~***b.** The individual holding the water certificate has been convicted of a crime involving a violation of any drinking water rule or statute. (3-16-04)*~~

~~***c.*** *The individual holding the water certificate has failed to use reasonable care and judgement in the performance of his or her duties as described in the definition of "Water Distribution Operator" or the definition of "Water Treatment Operator" found in Section 003 of these rules, or the application of his or her knowledge and ability in the performance of his or her duties is unsatisfactory.* *(3-16-04)*~~

~~***d.*** *Operators receiving revocations as provided in Subsection 562.01.a. are not eligible to reapply for certification for a period of five (5) years from the date of revocation. Operators receiving revocations as provided in Subsection 562.01.b. are not eligible to reapply for certification for a period of three (3) years from the date of revocation.* *(3-16-04)*~~

~~***02. Appeals.*** *In the event of a decision to suspend or revoke a certificate under the conditions set forth in this section, the holder of that certificate may appeal the decision as provided for in Sections 39-107(6) and 39-107(7), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality".* *(3-16-04)*~~

561. -- 562. (RESERVED).

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-0403

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: The temporary rule will become effective January 22, 2005. The pending rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that the Board has adopted a pending rule and a temporary rule. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004, Volume 04-7, pages 144 through 151. The Department of Environmental Quality (DEQ) held a public hearing in Boise, Coeur d'Alene, and Pocatello. No members of the public attended the hearing. DEQ received one public comment. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised in the public comment and an explanation of the reasons for adopting the rule as initially proposed, is included in the rulemaking record. The rulemaking record can be obtained by contacting the undersigned.

In accordance with Section 67-5226, Idaho Code, the full text of the temporary rule is being printed in its entirety in this Bulletin.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of this rule is necessary to comply with deadlines in federal law.

IDAHO CODE SECTION 39-107D STATEMENT: This rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Jerri Henry at (208)373-0471 or jhenry@deq.state.id.us.

DATED this 21st day of October, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code. In addition, states which have primary enforcement responsibility for the Safe Drinking Water Act are required by 40 CFR 142.10(a) and 40 CFR 142.12(b) through (d) to adopt within two years of promulgation, national primary drinking water regulations that are no less stringent than the federal regulations in effect under 40 CFR Part 141.

PUBLIC HEARING SCHEDULE: Public hearings concerning this proposed rulemaking will be held as follows. The hearings will take place simultaneously and will be connected by telephone.

August 4, 2004, 4:15 p.m. PDT
Department of Environmental Quality, Large Conference Room
2110 Ironwood Parkway, Coeur d'Alene, Idaho

August 4, 2004, 5:15 p.m. MDT
Department of Environmental Quality, Conference Room B
1410 N. Hilton, Boise, Idaho

August 4, 2004, 5:15 p.m. MDT
Department of Environmental Quality, Snake River Room
444 Hospital Way #300, Pocatello, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The arsenic rule was promulgated by the U.S. Environmental Protection Agency (EPA) on January 22, 2001. The Department of Environmental Quality (DEQ) requested and was granted a primacy extension from EPA Region X to submit the required primacy package for arsenic. In order for the state of Idaho to maintain primacy for the drinking water program, these rule revisions must be in place by January 22, 2005. The purpose of this rulemaking is to adopt these federal regulations by reference into the state rules.

The arsenic rule is intended to protect public health by reducing the standard for arsenic from 50 parts per billion (ppb) to 10 ppb. According to EPA, reducing the standard to 10 ppb will prevent 21 to 30 bladder and lung cancer deaths and 16 to 26 non-fatal bladder and lung cancer incidents nationally. This proposed rule reduces the arsenic standard from 50

ppb to 10 ppb and affects community and non-community non-transient classes of public water systems. The rule clarifies procedures for determining compliance with other chemical rules and also clarifies monitoring requirements for new drinking water systems and sources.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The pending rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature. In order to meet the January 2005 deadline, DEQ will also request that the Board adopt the rule as temporary with an effective date of January 22, 2005. DEQ also intends to hold public workshops regarding this rulemaking.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

NEGOTIATED RULEMAKING: Due to the nature of this rulemaking, negotiations were not held.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Jerri Henry at (208)373-0471 or jhenry@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 11, 2004.

Dated this 2nd day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4, revised as of July 1, ~~*1999*~~ 2004, is herein incorporated by reference.
~~*(4-5-00)*~~(1-22-05)T

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 550 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (5-3-03)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

c. Waiver of monitoring requirements is addressed in Subsection 100.07. (5-3-03)

d. The Department may, at its discretion, temporarily waive the CEU requirements outlined in Subsection 558.09 for certified operators who present documentation of deployment out of state or country on active military duty for a period of time that makes it impossible for the operator to meet the CEU requirements prior to the annual renewal date. Upon completion of active deployment, the operator shall have twelve (12) calendar months from the date of return to the state to make up the CEUs missed during deployment. This waiver does not alter the CEU requirements in Subsection 558.09 for the certification renewal cycle in progress at the time the operator returns to the state. (5-3-03)

02. Variances. (5-3-03)

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: (5-3-03)

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (5-3-03)

ii. Alternative sources of water are not reasonably available to the system. (5-3-03)

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (5-3-03)

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: (5-3-03)

i. The system serves three thousand three hundred (3,300) or fewer persons; (5-3-03)

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (5-3-03)

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (5-3-03)

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (5-3-03)

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the state, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (5-3-03)

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: (5-3-03)

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (5-3-03)

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (5-3-03)

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (5-3-03)

d. The granting of an exemption will not result in an unreasonable risk to health; (5-3-03)

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (5-3-03)

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (5-3-03)

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (5-3-03)

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. (5-3-03)

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (5-3-03)

06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

01. Inorganic Contaminants. (10-1-93)

a. 40 CFR 141.11, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

b. 40 CFR 141.62, revised as of July 1, 2004, is herein incorporated by reference. ~~*(10-1-93)*~~(1-22-05)T

c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). (12-10-92)

02. Organic Contaminants. (10-1-93)

a. 40 CFR 141.12, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

b. 40 CFR 141.61 is herein incorporated by reference. except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed

tower aeration will not be listed for toxaphene but will be listed for toluene. (10-1-93)

03. Turbidity. 40 CFR 141.13 is herein incorporated by reference. (10-1-93)

04. Radionuclides. 40 CFR 141.66, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

05. Microbiological Contaminants. 40 CFR 141.63, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

06. Maximum Contaminant Levels For Disinfection Byproducts. 40 CFR 141.64, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

07. Maximum Residual Disinfectant Levels. 40 CFR 141.65, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

08. Effective Dates. 40 CFR Part 141, revised as of July 1, 2004, is herein incorporated by reference. Effective date information provided in ~~*specified Sections of*~~ 40 CFR ~~*that are incorporated by reference are*~~ 141.6 and 40 CFR 141.60 is applicable.
~~*(12-10-92)*~~(1-22-05)T

(BREAK IN CONTINUITY OF SECTIONS)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

01. Microbiological Contaminant Sampling And Analytical Requirements. (10-1-93)

a. 40 CFR 141.21, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

b. The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. There has been no history of total coliform contamination in it's current configuration; and (10-1-93)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

c. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

d. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000) persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)

i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)

ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)

iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)

iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)

v. The system uses only a groundwater source that is protected. (12-10-92)

e. A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)

i. Identifies the cause of the contamination; (12-10-92)

ii. Is making progress towards correcting the problem; (12-10-92)

iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)

iv. Follows public notification requirements specified under 40 CFR 141.32, revised as of July 1, 2001, for acute MCL violations including notice for consumers to boil their water; (3-15-02)

v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)

vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)

vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)

02. Turbidity Sampling And Analytical Requirements. 40 CFR 141.22, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

03. Inorganic Chemical Sampling And Analytical Requirements. 40 CFR 141.23, revised as of July 1, 200~~1~~4, is herein incorporated by reference. ~~*(3-15-02)*~~(1-22-05)T

04. Organic Chemicals Other Than Total Trihalometranes, Sampling And Analytical Requirements. 40 CFR 141.24, revised as of July 1, 200~~1~~4, is herein incorporated by reference. ~~*(3-15-02)*~~(1-22-05)T

05. Analytical Methods For Radioactivity. 40 CFR 141.25, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

06. Monitoring Frequency And Compliance Requirements For Radioactivity In Community Water Systems. 40CFR 141.26, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

07. Waivers And Vulnerability Assessments. (10-1-93)

a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, 551.01.h. and 551.01.i. may be available to all systems for all contaminants except nitrate, nitrite,

arsenic and trihalomethanes, and are based upon a vulnerability assessment, use assessment and/or the analytical results of previous sampling. (10-1-93)

b. There are two (2) general types of monitoring waivers: (12-10-92)

i. Waivers based exclusively upon previous analytical data (12-10-92)

ii. Waivers based on a use or vulnerability assessment. (12-10-92)

c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)

d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, revised as of July 1, 200~~1~~4, 40 CFR 141.24, revised as of July 1, 200~~1~~4, and 40 CFR 141.40, revised as of July 1, 2001, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: ~~(3-15-02)~~(1-22-05)T

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

10. Approved Laboratories. All analyses conducted pursuant to this chapter, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Department. The following analyses shall be conducted by the public water system in accordance with the procedures approved in Idaho Department of Health and Welfare Rules, IDAPA 16.02.13, Subsection 008.02, "Rules Governing Certification of Idaho Water Quality Laboratories". (10-1-93)

a. pH; (12-10-92)

b. Turbidity (Nephelometric method only); (12-10-92)

c. Daily analysis for fluoride; (12-10-92)

d. Temperature; and (12-10-92)

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c. (12-10-92)

11. Consecutive Water System. 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

12. Total Trihalomethane Sampling, Analytical And Other Requirements. 40 CFR 141.30, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.

01. Organic Contaminants. 40 CFR 141.50 is herein incorporated by reference. (10-1-93)

02. Inorganic Contaminants. 40 CFR 141.51, revised as of July 1, 2004, is herein

incorporated by reference. ~~*(10-1-93)*~~(1-22-05)T

03. Microbiological Contaminants. 40 CFR 141.52, revised as of July 1, 1999, is herein incorporated by reference. (4-5-00)

04. Maximum Contaminant Level Goals For Disinfection Byproducts. 40 CFR 141.53, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

05. Maximum Residual Disinfectant Level Goals For Disinfectants. 40 CFR 141.54, revised as of July 1, 2002, is herein incorporated by reference. (5-3-03)

06. Radionuclides. 40 CFR 141.55, revised as of July 1, 2001, is herein incorporated by reference. (3-15-02)

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Idaho Code Sections 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Title 39, Chapter 1, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reasons for commencing the proposed rulemaking is set forth in the initial proposal published in the Idaho Administrative Bulletin, June 2, 2004, Volume 04-6, pages 49 through 67. DEQ received comments from the public. The proposed rule has been revised at Sections 001, 200, 300, 600, 601, and 602. The remaining sections have been adopted as initially proposed and have not been republished with this notice. DEQ's Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public and an explanation of the reasons for changes between the text of the proposed rule and the text of the pending rule, is included in the rulemaking record, which can be obtained by contacting the undersigned.

lDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to the Wastewater-Land Application Permit Rules, IDAPA 58.01.17. The requirements set forth in this rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications apply to both public health and environmental effects. The population affected by these limits includes the residents and users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The limits for Five Day Biochemical Oxygen Demand (BOD_5), Total Organic Carbon (TOC), and Total Suspended Solids (TSS) for Class A Reclaimed Wastewater (5 mg/L each) are based on the study of limits in other states. These measurable quantities are indicators of the effectiveness of treatment and not direct measurements of risk to human health. There are several states that presently regulate this type of wastewater reuse. Some states have lower limits and some have higher limits in their rules. DEQ evaluated the various limits used by other states and used limits in the rule that it believes are reasonable and protective given the associated risks. Until the reliability of various treatment facilities in Idaho has shown overall protectiveness to human health and the environment, DEQ feels that these limits are required to protect the citizens and environment of Idaho.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications apply to both public health and environmental effects. The limits in these rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations.

The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero.

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of 10 mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of 2.2 total coliform limit is in the existing Wastewater-Land Application Permit Rules.

The requirements set forth in this rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies have been included in the rulemaking record and can be reviewed by contacting the undersigned.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

Dated this 21st day of October, 2004.

The Following Notice Was Published With The Proposed Rule

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. This action is authorized by Title 39, Chapter 1, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing will not be held.

INFORMATIONAL MEETINGS: The Department of Environmental Quality has scheduled informational meetings regarding this rulemaking at the following locations:

June 10, 2004, 1:30 to 3:30 p.m. PDT
Department of Environmental Quality
2110 Ironwood Parkway, Coeur d'Alene, Idaho

(208) 769-1422

June 16, 2004, 1 to 2 p.m. MDT
Doubletree Riverside Hotel, Liberty Room
2900 Chinden Blvd., Boise, Idaho
(208) 343-1871

(This meeting has been scheduled in conjunction with the Association of Idaho Cities Annual Conference. All are welcome to attend this informational meeting.)

June 24, 2004, 1:30 to 3:30 p.m. MDT
Department of Environmental Quality
900 N. Skyline Suite B, Idaho Falls, Idaho
(208) 528-2650

DESCRIPTIVE SUMMARY: The purpose of this rulemaking is to add an additional class of treated wastewater to the Wastewater-Land Application Rules for reuse. This will add a class of more highly treated wastewater that can be used for more purposes, including aquifer recharge, residential irrigation, toilet flushing, water features, etc. This rulemaking will add definitions; additional application requirements for this new class including engineering report requirements; treatment and monitoring requirements; requirements for municipal reuse distribution systems; and technical, managerial, financial, and legal requirements. Municipalities, industry, consulting engineers, land developers, EPA, and other government agencies may be interested in commenting on this rulemaking.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Idaho Department of Environmental Quality (DEQ) intends to present the final proposal to the Board of Environmental Quality in the fall of 2004 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule regulates an activity not regulated by the federal government. The following is a summary of additional information required by Sections 39-107D(3) and (4), Idaho Code, supporting modifications to the Wastewater-Land Application Permit Rules, IDAPA 58.01.17. The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, the U.S. Environmental Protection Agency (EPA), and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(a), Idaho Code. Identification of each population or receptor addressed by an estimate of public health effects or environmental effects. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The population affected by these limits includes the residents and

users of facilities being irrigated by this wastewater effluent and the potential users of down-gradient beneficial uses of groundwater being recharged by this wastewater effluent.

Section 39-107D(3)(b) and (c), Idaho Code. Identification of the expected risk or central estimate of risk for the specific population or receptor and identification of each appropriate upper bound or lower bound estimate of risk. The expected risk of exposure to this quality of wastewater effluent for each of these populations is as follows.

The expected risk for nitrate contamination on groundwater is low. For nitrate from the wastewater effluent entering the groundwater and affecting down-gradient beneficial users for drinking water (either directly or indirectly), the proposed limits are based on the Idaho Rules for Public Drinking Water Systems, IDAPA 58.01.08, and Idaho's Ground Water Quality Rule, IDAPA 58.01.11. These standards are based on past studies by EPA determining the adverse health effects on infants from nitrate in drinking water.

The expected risk for pathogen contamination for affected populations is low. For pathogens in the wastewater effluent, the proposed coliform limits are based on Idaho's existing Wastewater-Land Application Permit Rules. Associated additional requirements regarding treatment, buffer zones, reliability and redundancy are included to give additional assurance that the limits are attained consistently.

There are multiple requirements put on the distribution system of the wastewater effluent. These requirements provide the affected populations with safeguards against contamination of their drinking water system from parallel or crossing main lines. These requirements also protect against contamination of their wastewater effluent system by raw sewage in parallel or crossing main lines. The expected risk of this type of contamination is low.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

Section 39-107D(3)(d), Idaho Code. Identification of each significant uncertainty identified in the process of the assessment of public health effects or environmental effects and any studies that would assist in resolving the uncertainty. The limits placed on wastewater treatment in the stated modifications are proposed for both public health and environmental effects. The limits in these proposed rule modifications are based on limits and standards used by other states and as promoted by national water reuse organizations. Although Idaho's wastewater land application permit program has been in affect for many years utilizing treated effluent for agricultural and municipal beneficial irrigation, the use of highly treated wastewater for higher beneficial uses is an evolving industry throughout the U.S. and the world. These higher uses, involving almost unrestricted use and unrestricted access by the general public, call for higher treatment and monitoring requirements to protect the affected populations. The uncertainty in assessing the health and environmental effects is believed to be minimal, but not zero (0).

Section 39-107D(3)(e), Idaho Code. Identification of studies known to the department that support, are directly relevant to, or fail to support any estimate of public health effects or environmental effects and the methodology used to reconcile inconsistencies in the data. The use of the proposed ten (10) mg/l for nitrate is based on the existing Ground Water Quality Rule and the existing Idaho Rules for Public Drinking Water Systems. The use of the proposed two and two-tenths (2.2) total coliform limit is currently in the Wastewater-Land Application Permit Rules.

The requirements set forth in this proposed rule are based upon studies and analysis conducted by other states, EPA, and national water reuse organizations that indicate the requirements are protective of human health and the environment and do not pose an unreasonable risk to the public potentially exposed. The referenced studies and analysis will be included in the rulemaking record and can be reviewed during the public comment period for further detailed information regarding risk.

NEGOTIATED RULEMAKING: The text of the proposed rule has been drafted based on discussions held during a negotiation conducted pursuant to Idaho Code Section 67-5220 and IDAPA 04.11.01.812 -815. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, November 5, 2003, Volume 03-11, page 90.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact Mark Mason at (208) 373-0266 or mmason@deq.state.id.us.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. The comment period will run from July 7, 2004 through August 4, 2004. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 5th day of May, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
pwilson@deq.state.id.us

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE AND SCOPE.

01. Title. These rules are to be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Wastewater-Land Application Permit Rules". (4-1-88)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of pollution source permits for the treatment of municipal and industrial wastewaters by application to land, and the treatment of municipal wastewaters for other reuse purposes as defined in Subsection 600.07, Direct Use of Municipal *Reclaimed* Wastewater. ~~*(4-1-88)*~~( )

002. WRITTEN INTERPRETATIONS.
Any written statements pertaining to the interpretation of these rules shall be available for review at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255.( )

003. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 003.02 shall constitute the full adoption by reference. ( )

02. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: ( )

a. IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, as codified in the 2004 Idaho Administrative Code. ( )

b. IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07, as codified in the 2004 Idaho Administrative Code. ( )

03. Availability Of Documents Incorporated By Reference. Copies of the documents incorporated by reference are available at the following locations. ( )

a. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. ( )

b. Idaho Administrative Rules website, http://www.state.id.us/adm/adminrules/agyindex.htm. ( )

00~~2~~4. -- 099. (RESERVED).

100. APPLICABILITY.

01. Existing Land Application Facilities. Those land application facilities which are in operation on the effective date of these rules are deemed to be validly permitted for up to one (1) year. Permit conditions for the first permit issued to any existing facility under these rules shall substantially conform to the existing practices of such facility unless those existing practices cause or create conditions hazardous to the public health or to the environment, or violate other laws or regulations. (4-1-88)

02. Excluded Facilities. Land application of wastewater from livestock truck washing

facilities, feedlots, dairies and mining are excluded from permit requirements under these rules but are subject to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements". The Director may exclude other facilities if covered adequately by other law. ~~(12-31-91)~~( )

101. -- 199. (RESERVED).

200. DEFINITIONS.
For the purpose of these rules the following definitions apply unless another meaning is clearly indicated by context: (4-1-88)

01. Applicant. The person applying for a wastewater land application permit. ( )

0~~1~~2. Applicable Requirements. Any state, local or federal statutes, regulations or ordinances to which the facility is subject. (4-1-88)

0~~2~~3. Board. The Idaho State Board of Environmental Quality. (12-31-91)

04. Buffer Distances. The distances between the actual land application of wastewater and other uses such as wells, adjoining property, inhabited dwellings, and other features. These distances are further defined in The Idaho Guidance for Land Application of Municipal and Industrial Wastewater. ( )

05. *Class A* Capacity. The capabilities required of a Class A effluent treatment and distribution system in order to achieve and maintain compliance with these rules. ( )

06. Class A Effluent Distribution System. The distribution system for Class A effluent as described in these rules. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements of IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 404. ( )

0~~3~~7. Department. The Idaho Department of Environmental Quality. (4-1-88)

0~~4~~8. Director. The Director of the Department of Environmental Quality or the Director's designee. (4-1-88)

09. Idaho Guidance For Land Application Of Municipal And Industrial Wastewater. This document, *and subsequent revisions of this document*, provides *assistance* for permitting and operating land application facilities. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255 *and www.deq.idaho.gov.* ( )

***0~~5~~*10. Land Application Facility Or Facility**. Any structure or system designed or used to treat wastewater through application to the land surface. (4-1-88)

***0~~6~~*11. Municipal Wastewater**. Waste water that contains sewage. (4-1-88)

~~*07*~~**12. New Activity**. Any significant change in operation or construction of the wastewater treatment system which may impact the waters of the state. (4-1-88)

~~*08*~~**13. Non-Contact Cooling Water**. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. (4-1-88)

14. NTU. Nephelometric Turbidity Unit - a unit of measurement of the level of turbidity. ( )

~~*09*~~**15. Permit**. Written authorization by the Director to land apply or discharge wastewater, other than to surface waters of the state, as identified in the plan of operation. (4-1-88)

16. Permittee. The person to whom the wastewater land application permit is issued. ( )

1~~0~~7. Person. An individual, corporation, partnership, association, state, municipality, commission, political subdivision of the state, state agency, federal agency, special district, or interstate body. (4-1-88)

18. Point Of Compliance. That point in the facility where the treated effluent wastewater must meet the different limit requirements of the permit. There may be more than one (1) point of compliance within the facility depending on the constituents to be monitored. ( )

1~~1~~9. Primary Effluent. Raw wastewater that has been mechanically treated by screening, degritting, sedimentation and/or skimming processes to remove substantially all floatable and settleable solids. (4-1-88)

~~*12*~~**20. Processed Food Crop**. Any crop intended for human consumption that has been changed from its original form and further disinfection occurs. (4-1-88)

~~*13*~~**21. Rapid Infiltration System**. A wastewater treatment method by which wastewater is applied to land in an amount of twenty (20) to six hundred (600) feet per year for percolation through the soil. Vegetation is not generally utilized by this method. (4-1-88)

~~*14*~~**22. Raw Food Crop**. Any crop intended for human consumption which is to be used in its original form. (4-1-88)

23. Reclaimed W*astew*ater. For the purpose of these rules, the term reclaimed water or reuse shall mean municipal wastewater that is used in accordance with these rules. ( )

~~*15*~~**24. Restricted Public Access**. Preventing public entry within one thousand (1,000) feet of the border of a facility by site location or physical structures such as fencing. A buffer strip less than one thousand (1,000) feet may be accepted if aerosol drift is reduced. (4-1-88)

25. *Reclaimed Wastewater* Facility. Any municipal structure or system designed or used to treat *municipal* wastewater for the purpose of reusing the effluent including, but not

limited to, *municipal* wastewater treatment facilities, pumping and storage facilities, pipeline and distribution facilities, and the property to which the *reclaimed* wastewater is applied. ( )

~~16~~26. Sewage. The water-carried human wastes from residences, buildings, industrial establishments and other places. (4-1-88)

~~17~~27. Sludge. The semi-liquid mass produced by treatment of water or wastewater. (4-1-88)

~~18~~28. Time Distribution Of Flows. A measurement of the volume of wastewater distributed over a specified area during a specified time period. Typical unit of measure is inches per acre per week. (4-1-88)

~~19~~29. Wastewater. Unless otherwise specified, industrial waste, municipal waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present but not including sludge, or non-contact cooling water. (4-1-88)

~~20~~30. Wastewater Treatment System. All phases of wastewater treatment including any pretreatment equipment and the land ~~*application*~~ treatment facility *on which the wastewater is applied*. ~~*(4-1-88)*~~( )

~~2~~31. Waters And Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-1-88)

201. -- 299. (RESERVED).

300. PERMIT REQUIREMENTS AND APPLICATION.

01. Permit Required. No person shall construct, modify, operate, or continue to operate a land application facility or other *reclaimed wastewater* facility without a valid permit issued by the Director as provided in these rules. ~~*(4-1-88)*~~( )

02. Dischargers. No person shall discharge to a land application or other *reclaimed wastewater* facility without a valid permit issued by the Director as provided in these rules. ~~*(4-1-88)*~~( )

03. Pre-Application Conference. Prospective applicants are encouraged to meet with the Department to discuss application procedure and anticipated application requirements. (4-1-88)

04. Application Required. Every person requiring a permit under these rules shall submit a permit application to the Department: (4-1-88)

a. At least one hundred eighty (180) days prior to the day on which a new activity is to begin; (4-1-88)

b. At least one hundred eighty (180) days prior to the expiration of any permit issued pursuant to these rules; (4-1-88)

c. Within one hundred eighty (180) days after the effective date of these rules for any existing land application facility deemed to be permitted under these rules. (4-1-88)

05. Application Contents. Application shall be made on a form prescribed by the Director and available from the Department and shall include, but not be limited to, the following information: (4-1-88)

a. Name, location, and mailing address of the facility; (4-1-88)

b. Name, mailing address, and phone number of the facility owner and signature of the owner or authorized agent; (4-1-88)

c. The nature of the entity owning the facility (federal, state, private, or public entity); (4-1-88)

d. A list of local, state, and federal permits, licenses and approvals related to the activity which have been applied for and which have been received and the dates of application or approval; (4-1-88)

e. A topographic map of the facility site identifying and showing the location and extent of: (4-1-88)

i. Wastewater inlets, outlets, and storage structures and facilities; (4-1-88)

ii. Wells, springs, wetlands, and surface waters; (4-1-88)

iii. Twenty-five (25), fifty (50), and one hundred (100) year flood plains, as available through the Federal Insurance Administration of the Federal Emergency Management Agency; (4-1-88)

iv. Service roads; (4-1-88)

v. Natural or man-made features necessary for treatment; (4-1-88)

vi. Buildings and structures; and (4-1-88)

vii. Process chemicals and residue storage facilities. (4-1-88)

f. A topographic map which may be separate from or combined with the facility site map, extending one quarter (1/4) mile beyond the outer limits of the facility site. The map shall identify and show the location and extent of the following: (4-1-88)

i. Wells, ~~S~~springs, wetlands, and surface waters; ~~*(4-1-88)*~~( )

ii. Public and private drinking water supply sources and source water assessment

areas (public water system protection area information); ~~(4-1-88)~~( )

iii. Public roads; and (4-1-88)

iv. Dwellings and private and public gathering places. (4-1-88)

g. If the facility site or any portion thereof is leased or rented, a copy of that lease or rental agreement; (4-1-88)

h. The volume of wastewaters to be treated and the time distribution of flows; (4-1-88)

i. The physical, chemical, and biological characteristics of the wastewater; (4-1-88)

j. The climatic, hydrogeologic, and soil characteristics of the facility site. (4-1-88)

k. Other information may also be required. The Idaho Guidance for Land Application of Municipal and Industrial Wastewater is *intended to provide assistance to permit applicants in obtaining a wastewater land application permit*. ( )

06. Existing Land Application Facility. Any existing land application facility ~~*will*~~ or other *reclaimed wastewater* facility shall be required to have a plan of operation which describes in detail the operation, maintenance, and management of the wastewater treatment system. ~~(4-1-88)~~( )

07. New Land Application Facility. Any new proposed land application facility ~~*will*~~ or other *reclaimed wastewater* facility shall be required to have a detailed plan of operation at the fifty percent (50%) completion point of construction. In addition, after one (1) year of operation the plan must be updated to reflect actual operating procedures. A general outline of the plan of operation must be provided with the permit application which will satisfy the intent of these rules. ~~(4-1-88)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

401. PLAN AND SPECIFICATION REVIEW.

The current edition of the "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," "Idaho Standards for Public Works Construction," and other Department guidance shall be used as guides for the development of plans and specifications for all waste treatment facilities in accordance with IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 402. The Department may review the project plans and specifications and the permit application materials concurrently. Plans and specifications may require modification prior to a final permit being issued. ( )

01. Requirement For Single Point Of Contact Responsible For Entire Wastewater

Project. The Applicant (Permittee) shall designate a single point of contact who is responsible for all submissions to the Department related to the wastewater facilities construction project. This single point of contact shall be identified in the permit application. ( )

02. Requirement For Preparation Of Plans And Specifications. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same shall be submitted to and approved by the Director before construction can begin in accordance with Chapter 1, Title 39, Idaho Code, and IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," Section 402. ( )

03. Requirement For Professional Engineer's Seal. All plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other waste treatment or disposal facilities or modification or expansion to same, wherein the public welfare or the safeguarding of life, health, or property is involved, shall bear the seal, signature and date of a registered professional engineer licensed in the state of Idaho in accordance Chapter 12, Title 54, Idaho Code. ( )

40~~1~~2. -- 499. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

600. SPECIFIC PERMIT CONDITIONS.

01. Basis For Specific Permit Conditions. Conditions necessary for the protection of the environment and the public health may differ from facility to facility because of varying environmental conditions and wastewater compositions. The Director may establish, on a case-by-case basis, specific permit conditions. Specific conditions shall be established in consideration of characteristics specific to a facility and inherent hazards of those characteristics. Such characteristics include, but are not limited to: (4-1-88)

a. Chemical, biological, physical, and volumetric characteristics of the wastewater; (4-1-88)

b. Geological and climatic nature of the facility site; (4-1-88)

c. Size of the site and its proximity to population centers and to ground and surface water; (4-1-88)

d. Legal considerations relative to land use and water rights; (4-1-88)

e. Techniques used in wastewater distribution and the disposition of that vegetation exposed to wastewaters; (4-1-88)

f. Abilities of the soils and vegetative covers to treat the wastewater without undue

hazard to the environment or to the public health; and (4-1-88)

g. The need for monitoring and record keeping to determine if the facility is being operated in conformance with its design and if its design is adequate to protect the environment and the public health. (4-1-88)

02. Duration Of Permit. The permit shall be effective for a fixed term of not more than five (5) years. (4-1-88)

03. Limitations To Operation. Conditions of the permit may specify or limit: (4-1-88)

a. Wastewater composition; (4-1-88)

b. Method, manner, and frequency of wastewater treatment; (4-1-88)

c. Wastewater pretreatment requirements; (4-1-88)

d. Physical, chemical, and biological characteristics of a land application facility; and (4-1-88)

e. Any other condition the Director finds necessary to protect public health or environment. (4-1-88)

04. Compliance Schedules. The Director may establish a compliance schedule for existing facilities as part of the permit conditions including: (4-1-88)

a. Specific steps or actions to be taken by the permittee to achieve compliance with applicable requirements or final permit conditions; (4-1-88)

b. Dates by which those steps or actions are to be taken; and (4-1-88)

c. In any case where the period of time for compliance exceeds one (1) year the schedule may also establish interim requirements and the dates for their achievements. (4-1-88)

05. Monitoring Requirements. Any facility may be subject to monitoring requirements including, but not limited to: (4-1-88)

a. The installation, use, and maintenance of monitoring equipment; (4-1-88)

b. Monitoring or sampling methodology, frequency, and locations; (4-1-88)

c. Monitored substances or parameters; (4-1-88)

d. Testing and analytical procedures; and (4-1-88)

e. Reporting requirements including both frequency and form. (4-1-88)

06. Rapid Infiltration Systems. The following minimum treatment requirements are established for land application of wastewater. (4-1-88)

a. Suspended solids content of wastewater which includes organic and inorganic particulate matter shall not exceed a thirty (30) day average concentration of one hundred (100) mg/l. (4-1-88)

b. Nitrogen (total as N) content of wastewater shall not exceed a thirty (30) day average concentration of twenty (20) mg/l. (4-1-88)

07. Direct Use Of Municipal *Reclaimed* Wastewater. Treatment requirements applicable to direct use of municipal *reclaimed* wastewater include, but are not limited to, the following~~:~~. The applicable treatment requirements, buffer zones, access restrictions, disinfection requirements, uses, and other requirements are further described in the Classification Table in Subsection 600.08. ~~*(4-1-88)*~~( )

a. Class A effluent is municipal *reclaimed* wastewater that may be used under particular circumstances for residential irrigation at individual homes (controlled only by the system operator), ground water recharge, surface spreading, seepage ponds, other unlined water features, and other appropriate uses. Class A effluent shall be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. *E*nhanced filtration *approval* requirements, nutrient removal requirements, turbidity limits requirements, monitoring requirements, reliability and redundancy requirements, and distribution system requirements also apply. Class A treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up. Class A effluent shall be considered adequately disinfected if, at the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For ground water recharge, surface spreading, seepage ponds, and other unlined water features, IDAPA 58.01.11, "Ground Water Quality Rule," requirements apply. For Class A effluent, analysis shall be based on daily sampling during periods of use. The point of compliance for Class A effluent for total coliform shall be in the distribution system following final treatment, final storage and disinfection contact time. Class A effluent for residential irrigation should be applied only during periods of non-use. ( )

~~*a*~~**b.** ~~*Where the*~~ Class B effluent is municipal *reclaimed* wastewater that may contact any edible portion of raw food crops~~*, the municipal wastewater*~~ or is used to irrigate golf courses, parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure. Class B effluent shall be oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected. Class B treatment systems are required to be pilot tested at full scale prior to sewer hookups, lifting of sanitary restrictions, and start-up. ~~*The municipal wastewater*~~ Class B effluent shall be considered adequately disinfected if, at ~~*some location in the treatment process*~~ the point of compliance, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, and does not exceed twenty-three (23) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. For Class B effluent, analysis shall be based on daily sampling during periods of

application. The point of compliance for Class B effluent for total coliform shall be in the distribution system following final treatment, final storage and disinfection contact time. Residual chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. Class B effluent shall be applied only during periods of non-use by the public. ~~*(12-31-91)*~~( )

~~*b*~~c. ~~*Where the*~~ Class C effluent is municipal *reclaimed* wastewater that will only contact the unedible portion of raw food crops, ~~*the wastewater*~~ or is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation, and other areas where individuals have access or exposure. Class C effluent shall be oxidized and adequately disinfected. ~~*The municipal wastewater*~~ *Class C effluent* shall be considered adequately disinfected if, at ~~*some location in the treatment process*~~ the point of compliance, the median number of total coliform organisms does not exceed ~~*two and two-tenths (2.2)*~~ twenty-three (23) per one hundred (100) milliliters, and does not exceed two hundred thirty (230) per one hundred (100) milliliters in any confirmed sample as determined from the bacteriological results of the last ~~*seven*~~ five (~~7~~5) days for which analyses have been completed. For Class C effluent, analysis shall be based on weekly sampling during periods of application. The point of compliance for Class C effluent for total coliform shall be at the entrance to the distribution system following final treatment and disinfection contact time, but before storage. Class C effluent shall be applied only during periods of non-use by the public. ~~*(12-31-91)*~~( )

~~*c*~~d. ~~*Where*~~ Class D effluent is municipal *reclaimed* wastewater ~~*is used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground,*~~ that is used to irrigate fodder, seed, or processed food crops and ~~*if:*~~ ~~*(4-1-88)*~~

~~*i. Public access is not restricted, the municipal wastewater shall be of primary effluent quality*~~ is oxidized and adequately disinfected. ~~*The municipal wastewater*~~ *Class D effluent* shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, not to exceed two thousand three hundred (2300) per one hundred (100) milliliters in any confirmed sample, as determined from the bacteriological results of the last ~~*seven*~~ three (~~7~~3) days for which analyses have been completed~~:~~. For Class D effluent, analysis shall be based on monthly sampling during periods of application. Animals shall not be grazed on land where Class D municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within two (2) weeks of application. ~~*(12-31-91)*~~( )

~~*ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality.* (4-1-88)~~

e. Class E effluent is municipal *reclaimed* wastewater that is used to irrigate fodder, seed, or processed food crops or forested sites where public access is restricted and the municipal wastewater shall be of at least primary effluent quality. Animals shall not be grazed on land where Class E municipal wastewater is applied, and animals shall not be fed harvested vegetation irrigated in this manner within four (4) weeks of application. ( )

~~*d. Where municipal wastewater is used to irrigate fodder, seed or processed food crops if:* (4-1-88)~~

~~*i. Public access is not restricted, the municipal wastewater shall be of primary effluent quality and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Animals shall not be grazed on land where municipal wastewater is applied.* (12-31-91)~~

~~*ii. Public access is restricted, the municipal wastewater shall be of primary effluent quality. Animals shall not be grazed on land where municipal wastewater is applied and shall not be fed vegetation irrigated in this manner within two (2) weeks of application.* (4-1-88)~~

~~*e. Where municipal wastewater is used to irrigate golf courses, cemeteries, roadside vegetation, and other areas where individuals have access or exposure, the municipal wastewater shall be oxidized and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of coliform organisms does not exceed twenty-three (23) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use.* (12-31-91)~~

~~*f. Where municipal wastewater is used to irrigate parks, playgrounds, schoolyards and other areas where children are more likely to have access or exposure, the municipal wastewater shall be oxidized, coagulated, clarified, filtered or treated by an equivalent process and adequately disinfected. The municipal wastewater shall be considered adequately disinfected if, at some location in the treatment process, the median number of total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters, as determined from the bacteriological results of the last seven (7) days for which analyses have been completed. Irrigation shall be accomplished during periods of non-use.* (12-31-91)~~

08. Direct Use Of Municipal *Reclaimed* Wastewater - Classification Table. The following table further describes the requirements for direct use of municipal *reclaimed* wastewater outlined in Subsection 600.07.

Classification Table					
Classification	**Class A**	**Class B**	**Class C**	**Class D**	**Class E**
Treatment	This is a partial list - see Section 601 for more detail: Oxidized, coagulated, clarified, with enhanced filtration *approval* requirements or treated by an equivalent process, plus nutrient removal requirements, turbidity limits requirements, adequately disinfected and pilot tested.	Oxidized, coagulated, clarified, filtered, or treated by an equivalent process and adequately disinfected and pilot tested.	Oxidized and adequately disinfected	Oxidized and adequately disinfected	At least primary effluent quality
Disinfection	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed two and two-tenths (2.2) per one hundred (100) milliliters	Total coliform organisms does not exceed twenty three (23) per one hundred (100) milliliters	Total coliform organisms does not exceed two hundred thirty (230) per one hundred (100) milliliters	Total coliform organisms up to "too numerous to count"
Uses	Residential irrigation at individual homes, ground water recharge, surface spreading, seepage ponds, other unlined water features, or Class B, C, D, or E uses. Other requirements apply for groundwater uses.	May contact any edible portion of raw food crops, or is used to irrigate golf courses, parks, playgrounds, schoolyards or Class C, D, or E uses.	Used to irrigate orchards and vineyards during the fruiting season, if no fruit harvested for raw use comes in contact with the irrigation water or ground, or will only contact the unedible portion of raw food crops, or is used to irrigate cemeteries, roadside vegetation or Class D or E uses.	Used to irrigate fodder, seed, or processed food crops or Class E uses.	Used to irrigate fodder, seed, processed food crops, or forested sites.
Access Restriction	Irrigated during periods of non-use.	Irrigated during periods of non-use by the public.	Irrigated during periods of non-use by the public.	Public access restricted.	Public access restricted.

Classification Table					
Classification	**Class A**	**Class B**	**Class C**	**Class D**	**Class E**
Signing and Posting	See Subsection 601.02	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater
Buffer Zones	No effluent is allowed to be applied into or over natural waterways, or other conveyances that drain into natural waterways *without an NPDES Permit*.	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	Site specific - See Idaho Guidance for Land Application of Municipal and Industrial Wastewater	1000 ft. to inhabited dwellings and areas accessible to the public
Grazing	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing allowed only with approved grazing management plan.	Grazing not allowed.	Grazing not allowed.

( )

601. CLASS A EFFLUENT *MUNICIPAL RECLAIMED WASTEWATER* - ADDITIONAL REQUIREMENTS.

01. Engineering Report. Engineering reports and application materials for new Class A *effluent municipal reclaimed wastewater* systems or major upgrades to Class A *effluent municipal reclaimed wastewater* systems shall be submitted to the Department with the application and must be approved by the Department prior to permit issuance. The engineering report shall include, but not be limited to, the following items as applicable: purpose; approach; development of alternatives; technical, financial, managerial, and legal issues; emergency response and security; operation and maintenance; pilot testing; client use issues; potential markets; potential sources of wastewater; public involvement and perception; targeted markets; allocation; preliminary investigations; staff development; treatment system upgrades *to meet Class A requirements*; distribution system development and schedule; new development infrastructure; reservoir or booster capacity; water balance calculations; costs; applicable regulations; and potential funding sources. This engineering report shall be stamped, dated and signed in accordance with Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10.01.02, "Rules of Professional Responsibility". ( )

02. Distribution System Requirements. Class A distribution systems and the continued distribution systems of all of its customers shall have specific requirements including, but not limited to: ( )

a. Any person or agency that is planning to construct all or part of the distribution system must obtain a plan and specification approval from the Department prior to beginning construction. Where Class A effluent is to be provided by pressure pipeline, the following applicable standards shall be used as guidance: the current edition of "Recommended Standards for Wastewater Facilities - Great Lakes-Upper Mississippi River Board of State Sanitary Engineers," the "AWWA Manual M24" Chapter 4 for dual water systems, and the current edition of "Idaho Standards for Public Works Construction". The above guidance documents shall be used for all new systems constructed after April 1, 2005. Requirements for irrigation systems proposed for conversion from use of non-Class A effluent water to use with Class A effluent will be considered on a case-by-case basis considering protection of public health and the environment. ( )

b. Distribution Lines. ( )

i. Minimum Separation. ( )

(1) Horizontal Separation. Class A effluent distribution mains parallel to potable (culinary) water mains shall be installed in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. Class A effluent distribution mains parallel to sanitary sewer mains shall be installed at least five (5) feet horizontally from the sanitary sewer main if the sanitary sewer main is located above the Class A effluent main, and three (3) feet horizontally from the sanitary sewer main if the sanitary sewer main is located below the Class A effluent main. ( )

(2) Vertical Separation. At crossings of Class A effluent distribution mains with potable water mains and sanitary sewer mains, the order of the mains from lowest in elevation to highest should be: sanitary sewer main, Class A effluent main, and potable water main. A minimum of eighteen (18) inches vertical separation between each of these utilities shall be provided as measured from outside of pipe to outside of pipe. The crossings shall be arranged so that the Class A effluent main joints will be equidistant and as far as possible from the water main joints and the sewer main joints. If the Class A effluent water main must cross above the potable water main, the vertical separation shall be a minimum eighteen (18) inches, the Class A effluent main shall be supported to prevent settling, and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. If the Class A effluent main must cross below the sanitary sewer main, the vertical separation shall be a minimum eighteen (18) inches and the Class A effluent main shall be encased in a continuous pipe sleeve to a distance on each side of the crossing equal to ten (10) feet. ( )

(3) Special Provisions. Where the horizontal and/or vertical separation as required above cannot be maintained, special construction requirements shall be provided in accordance with requirements in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, for protection of potable water mains. ( )

ii. Class A Effluent Pipe Identification. ( )

(1) General. All new buried pipe, including service lines, valves, and other appurtenances, shall be colored purple, Pantone 512 or equivalent. If fading or discoloration of the purple pipe is experienced during construction, identification tape or locating wire along the pipe is required. Label piping every ten (10) feet "Caution: Reclaimed Water - Do Not Drink". ( )

(2) Identification Tape. If identification tape is installed along with the purple pipe, it shall be prepared with white or black printing on a purple field, color Pantone 512 or equivalent, having the words, "Caution: Reclaimed Water - Do Not Drink". The overall width of the tape shall be at least three (3) inches. Identification tape shall be installed eighteen (18) inches above the transmission pipe longitudinally, shall be centered over the pipe, and shall run continuously along the length of the pipe. ( )

iii. Conversion of Existing Drinking Water or Irrigation Water Lines. Existing water lines that are being converted to use with Class A effluent shall first be accurately located and comply with leak test standards in accordance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06, and in coordination with the Department. The pipeline must be physically disconnected from any potable water lines and brought into compliance with current state cross connection rules and requirements (IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.07), and must meet minimum separation requirements in Subsection 601.02.b. of these rules. If the existing lines meet approval of the water supplier and the Department based upon the requirements set forth in Subsection 601.02.b.iii. of these rules, the lines shall be approved for Class A effluent distribution. If regulatory compliance of the system (accurate location and verification of no cross connections) cannot be verified with record drawings, televising, or otherwise, the lines shall be uncovered, inspected, and identified prior to use. All accessible portions of the system must be retrofitted to meet the requirements of these rules. After conversion of the water or irrigation line to a wastewater effluent line, the lines shall be marked as stated in Subsection 601.02.b.ii.(2) of these rules. ( )

iv. Valve Boxes and Other Surface Identification. All valve covers shall be of non-interchangeable shape with locking potable water covers, and shall have an inscription cast on the top surface stating "Reclaimed Water". Valve boxes shall meet the requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 550.06. All above ground pipes and pumps shall be consistently color coded (purple, Pantone 512) and marked to differentiate Class A effluent facilities from potable water facilities. ( )

v. Blow-off Assemblies. If either an in-line type or end-of-line type blow-off or drain assembly is installed in the system, a plan for proposed discharge or runoff locations shall be submitted to the Department for review and approval. ( )

c. Storage. If storage or impoundment of Class A effluent is provided, the following requirements apply: ( )

i. Fencing. No fencing is required by these rules, but may be required by local laws or ordinances. ( )

ii. Identification. All storage facilities shall be identified by signs prepared according to the requirements of Subsection 601.02.e.v. of these rules. Signs shall be posted on the surrounding fence at minimum five hundred (500) foot intervals and at the entrance of each facility. If there is no fence, signs shall be located at a minimum on each side of the facility or at minimum two hundred fifty (250) foot intervals or at all accessible points. ( )

iii. For systems supplying irrigation water for residential lawn irrigation, minimum storage requirements shall include sufficient volume for daily use patterns, precipitation events, etc., and an alternate disposal point during non-irrigation season. ( )

d. Pumping Facilities. ( )

i. Marking. All exposed and above ground piping, risers, fittings, pumps, valves, etc., shall be painted purple, Pantone 512. In addition, all piping shall be identified using an accepted means of labeling reading "Warning: Reclaimed Water - Do Not Drink". In a fenced pump station area, signs shall be posted on the fence on all sides. ( )

ii. Seal Water. Any potable water used as seal water for reclaimed water pump seals shall be protected from backflow with a Department approved backflow prevention device or air gap. ( )

e. Other Requirements. ( )

i. Backflow Protection. In no case shall a direct connection be made between the potable and Class A effluent system. If it is necessary to put potable water into the Class A effluent distribution system, a Department approved reduced pressure principal device or air gap must be provided to protect the potable water system. ( )

ii. Drinking fountains, picnic tables, food establishments, and other public eating facilities shall be placed out of any spray irrigation area in which Class A effluent is used, or shall be otherwise protected from contact with the Class A effluent. Exterior drinking fountains, picnic tables, food establishments, and other public eating facilities shall be shown and called out on the construction plans. If no exterior drinking fountains, picnic tables, food establishments, or other public eating facilities are present in the design area, then it shall be specifically stated on the plans that none are to exist. ( )

iii. Equipment and Facilities. Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with Class A effluent *shall not be used with potable water or sewage*. *Any equipment or facilities such as tanks, temporary piping or valves, and portable pumps that have been or may be used with sewage shall not be used with Class A effluent or potable water.* ( )

iv. Warning Labels. Warning labels shall be installed on designated facilities such as, but not limited to, controller panels and washdown or blow-off hydrants on water trucks, hose bibs, and temporary construction services. The labels shall read, "Warning: Reclaimed W*aste*water - Do Not Drink". ( )

v. Warning signs. Where reclaimed water is stored or impounded, or used for

irrigation in public areas, warning signs shall be installed and contain, at a minimum, one (1) inch purple letters (Pantone 512 or equivalent) on a white or other high contrast background notifying the public that the water is unsafe to drink. Signs may also have a purple background with white or other high contrast lettering. Warning signs and labels shall read, "Warning: Reclaimed W*aste*water - Do Not Drink". The signs shall include the international symbol for Do Not Drink. ( )

03. Other Permits Addressed As Necessary. The following other permits may be necessary for a particular facility but are not regulated under these rules: ( )

a. NPDES permits from the Environmental Protection Agency for surface water discharge. ( )

b. Injection well permits from Idaho Department of Water Resources. ( )

04. Filtration Technology Approval Requirements. All Class A effluent projects in Idaho must have written approval from the Department for their proposed filtration technology prior to submitting plans and specifications for approval. The following approaches are methods by which this written approval may be obtained from the Department. ( )

a. Department approval based on previous similar projects in Idaho. ( )

b. National approval by National Reuse Association, Water Environment Federation Research Foundation, NSF International, or other organization approved by the Department. ( )

c. The State of California Department of Health Services Treatment Technology Report for Recycled Water. ( )

d. *Other methods approved by the Department.* ( )

05. Nutrient Removal Requirements. Total nitrogen at the point of compliance shall not exceed ten (10) mg/L based on a monthly arithmethic mean as determined from daily composite sampling. This value may be much lower depending on the results of any applicable nutrient-pathogen studies that may be required. ( )

06. Turbidity Limits And Monitoring Requirements. ( )

a. One (1) in-line, continuously monitoring, recording turbidimeter is required for each treatment train. ( )

b. Class A effluent shall meet the following turbidity limits. The daily arithmetic mean of all daily measurements of turbidity shall not exceed two (2) NTU, and turbidity shall not exceed five (5) NTU at any time. Turbidity shall be measured continuously. The turbidity standard shall be met prior to disinfection. ( )

07. Reliability and Redundancy Requirements. ( )

a. An alternative disposal option or diversion to adequate lined storage must be automatically activated if turbidity exceeds or chlorine residual drops below the instantaneous required value for more than two (2) minutes. The maximum number of times a facility could exceed on this basis is twice in one (1) week, both of which times are required to be immediately reported. Failure to report or exceeding more than twice in one (1) week are sufficient grounds for the Department to require the system to be shut down for inspection and repair. ( )

b. Redundant facilities, including, but not limited to, monitoring equipment and treatment trains shall be required. ( )

c. Standby Power sufficient to maintain all treatment and distribution works shall be required for the Class A effluent use. An alternative to this is to provide standby power sufficient for basic treatment and for automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. ( )

d. Standby treatment filter units in fully operable condition capable of treating peak flow shall be plumbed and wired in place for immediate use. An alternative to this is automatic by-pass of filtration directly to an alternative disposal option or diversion to lined storage. ( )

08. Other Class A Effluent Requirements. ( )

a. Five (5) Day Biochemical Oxygen Demand (BOD5) shall not exceed five (5) mg/L and Total Organic Carbon (TOC) shall not exceed five (5) mg/L based on a monthly arithmethic mean as determined from daily composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance. ( )

b. Total Suspended Solids (TSS) prior to disinfection shall not exceed five (5) mg/L based on a monthly arithmethic mean as determined from daily composite sampling. Composite samples shall be comprised of at least six (6) flow proportionate samples taken over a one (1) day period at the point of compliance. ( )

c. The pH as determined by daily grab samples or continuous monitoring shall be between six point zero (6.0) and nine point zero (9.0). ( )

d. Residual Chlorine at the point of compliance shall be not less than one (1) mg/L free chlorine after a contact time of thirty (30) minutes at peak flow. If an alternate disinfection process is used, it must be demonstrated to the satisfaction of the Department that the alternative process is comparable to that achieved by chlorination with a one (1) mg/L free chlorine residual after thirty (30) minutes contact time. ( )

e. For any type of ground water recharge system, the Class A effluent must also meet ground water quality standards per IDAPA 58.01.11, "Ground Water Quality Rule," and comply with the remaining sections of the "Ground Water Quality Rule". For these types of ground water recharge systems utilizing *Class A effluent* municipal *reclaimed* wastewater, the applicant shall propose to the Department for review and approval, the applicable testing requirements for the effluent as it relates to the primary and secondary ground water standards, as well as background ground water quality. Ground water recharge site locations shall be a minimum of two thousand

(2000) feet from any drinking water extraction well and shall also provide for a minimum of one (1) year of storage in the aquifer prior to withdrawal. The Idaho Department of Water Resources requires additional permits for ground water injection wells. ( )

f. A filter to waste operational criteria is required for all Class A effluent filtration facilities for each time a filter starts up. The filter will automatically filter to waste until the effluent meets the required turbidity standard. ( )

g. Additional information in the form of reports by qualified soil scientists, professional geologists, professional engineers, or other qualified individuals relating to environmental assessments, nutrient management plans, or water rights issues shall be submitted to the Department at the pre-application conference or with the application and must be approved by the Department prior to permit issuance. ( )

h. Requirements for Class A effluent distribution system operators. All operators of Class A effluent distribution systems, including operators of the distribution system from the wastewater treatment plant to the point of compliance or point of use or point of sale, as applicable, and those operators that are employed by buyers of the Class A effluent for subsequent use, shall have the following qualifications. Operators shall have a high school diploma or GED or equivalent. Operators shall be trained, by a qualified manufacturer's representative, in the use and repair of the particular distribution system to be operated. Operators shall be trained in the concepts and safety issues of wastewater reuse, including viral infection issues, by the licensed operator of the particular wastewater treatment plant providing the Class A effluent to the particular system in use. Contracts for sale of Class A effluent for subsequent use shall also require these standards. Individual homeowners shall not operate or maintain Class A effluent distribution systems. ( )

602. DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF CLASS A EFFLUENT *RECLAIMED* WASTEWATER SYSTEMS.

No person shall proceed, or cause to proceed, with construction of a new class A effluent *reclaimed* wastewater system until it has been demonstrated to the Department that the *new Class A effluent reclaimed* wastewater system will have adequate technical, financial, and managerial capacity. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 601.02.a. of these rules. The Applicant must obtain Department approval of the new system capacity demonstration prior to permit issuance and construction. ( )

01. Technical Capacity. In order to meet this requirement, the Class A effluent *reclaimed* wastewater system shall submit documentation to demonstrate the following: ( )

a. The system meets the relevant design, construction, operating and maintenance requirements of these rules; ( )

b. The system has an adequate and consistent source of wastewater; ( )

c. A security plan is in place to protect the wastewater source and deal with emergencies; ( )

d. The system has trained personnel with an understanding of the technical and operational characteristics of the system; ( )

e. A plan for cross-connection control; ( )

f. Procedures for emergency response; and ( )

g. Quality assurance and quality control plans. ( )

02. Financial Capacity. A demonstration of financial capacity must include, but is not limited to, the following information: ( )

a. Documentation that organizational and financial arrangements are adequate to construct and operate the Class A effluent *reclaimed wastewater* distribution system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; ( )

b. Demonstration of revenue sufficiency that includes, but is not limited to, billing and collection procedures, a proposed rate structure which is affordable and ensures availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; ( )

c. Adequate fiscal controls shall be demonstrated; and ( )

d. Equipment inventory controls shall be in place. ( )

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner and/or operator of a new Class A effluent *reclaimed* wastewater system shall submit at least the following information to the Department: ( )

a. Clear documentation of legal ownership of the Class A effluent *reclaimed* wastewater system, including collection, treatment and effluent distribution systems, and any plans that may exist for transfer of that ownership on completion of construction or after a period of operation; ( )

b. The name, address, and telephone number of the person who will be accountable for ensuring that the *Class A effluent reclaimed* wastewater system is in compliance with these rules; ( )

c. The name, address, and telephone number of the system operator; ( )

d. A description of the manner in which the wastewater system will be managed. By-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organization structure are a means of providing this information; ( )

e. Personnel management policies and a description of staffing, including training, experience, certification or licensing, and continuing education completed by the *Class A effluent*

reclaimed wastewater system staff; ( )

f. An explanation of how the wastewater system operators will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and ( )

g. Evidence of short-term and long-term planning for future growth, equipment repair and maintenance, and long term replacement of system components. ( )

04. Submittal Form. The Department shall provide a standard form to be used in preparing a new system capacity demonstration. ( )

05. Consolidation. In demonstrating new system capacity, the owner of the proposed new Class A effluent *reclaimed* wastewater system shall investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner shall explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. ( )

06. Exclusion. New Class A effluent *reclaimed* wastewater systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, shall meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission". Such wastewater systems shall not be required to meet any requirements of Section 602 which are in conflict with the provisions and requirements of the Idaho Public Utilities Commission. ( )

60~~1~~3. -- 699. (RESERVED).

House Environmental Affairs Committee

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.23 - RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0123-0401

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule will become final and effective immediately upon the adjournment sine die of the First Regular Session of the Fifty-eighth Idaho Legislature unless prior to that date the rule is rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Sections 39-105, 39-107, and 67-5206, Idaho Code.

DESCRIPTIVE SUMMARY: In May 2004, this rule was adopted by the Board as a temporary rule and is currently effective. A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, July 7, 2004 Volume 04-7, pages 152 through 155. The agency received no public comments on the proposal, and the rule has been adopted as initially proposed. The rulemaking record can be obtained by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department of Environmental Quality (DEQ) states that this rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows:

1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13.

3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c)

and 40 CFR Section 124.18.

4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, DEQ will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23.

The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact the undersigned.

Dated this 21st day of October, 2004.

The Following Notice Was Published With The Temporary And Proposed Rule

EFFECTIVE DATE: The temporary rule was effective May 21, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226(1), Idaho Code, notice is hereby given that the Board of Environmental Quality has adopted a temporary rule and the Department of Environmental Quality (DEQ) is commencing proposed rulemaking to promulgate a final rule. This action is authorized by Sections 39-105, 39-107, and 67-5206, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before July 21, 2004. If no such written request is received, a public hearing will not be held.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23, exclude Hazardous Waste Management Act (HWMA) permit appeals, which are governed instead by Section 013 of the Rules and Standards for Hazardous Waste, IDAPA 58.01.05, and 40 CFR 124.19. In May 2000 the Environmental Protection Agency revised 40 CFR 124.19. Those revisions caused the procedures for hearings and administrative appeals to be inconsistent with the procedures for contested cases set out in the Idaho Administrative Procedure Act (APA) by eliminating

the opportunity for an evidentiary hearing and limiting appeals to record review. Recent case law from the Idaho Supreme Court has made it clear that agencies must afford persons the procedural protection of the APA contested case provisions which include the right to present evidence and examine witnesses where appropriate.

This rulemaking is being undertaken to remove the exclusion of HWMA permit appeals from the definition of "contested case" so that those procedures will be consistent with the Idaho APA. This rule change will streamline the procedures of the Department of Environmental Quality (DEQ) by eliminating the alternative procedures, making the rules and procedures for all permit appeals consistent within DEQ. Any citizen of the state of Idaho and/or regulated industry appealing a HWMA permit action of DEQ to the Board of Environmental Quality (Board) or having a direct and substantial interest in a proceeding filed with the Board may be interested in participating in this rulemaking.

With this rule change, it is necessary to revise the Rules and Standards for Hazardous Waste, IDAPA 58.01.05, to remove the incorporation by reference of 40 CFR 124.19.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Environmental Quality in October 2004 for adoption of a pending rule. The rule is expected to be final upon the conclusion of the 2005 session of the Idaho Legislature if approved by the Legislature.

IDAHO CODE SECTION 39-107D STATEMENT: In compliance with Section 39-107D, Idaho Code, the Department states that this proposed rule is not broader in scope, more stringent than federal law or regulations and does not regulate an activity that is not regulated by the federal government. This proposed rule is introduced for the purpose of making the procedures applicable to HWMA permits consistent with the Idaho Administrative Procedures Act and the Rules of Administrative Procedure Before the Board of Environmental Quality, IDAPA 58.01.23. As such, the procedures applicable to HWMA permit appeals will differ from procedures before the Environmental Appeals Board for the United States Environmental Protection Agency as governed by 40 CFR Section 124.19. The major differences are as follows: 1) The right to initiate an appeal will not be limited to persons who have commented on the proposed permit or testified at the public hearing. Instead, any person affected or aggrieved and having legal standing shall be entitled to initiate a permit appeal pursuant to the contested case rules. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13. 2) The issues raised in HWMA permit appeals may not be limited to issues raised in the public comment period or at the public hearing. Instead, any issues germane and legally relevant to the issuance of the permit may be raised, whether addressed to the agency previously or not. Compare 40 CFR 124.19(a) and 40 CFR Section 124.13. 3) The record for review may not be limited to the administrative record compiled during issuance of the permit, but will instead be available for supplementation including the presentation of testimony and the right of cross-examination. Compare 40 CFR 124.19(c) and 40 CFR Section 124.18. 4) The ability to deny review based upon the contents of the petition alone will not be available. Compare 40 CFR 124.19(c). Instead, the

Department will be required to respond to the petition and address the merits of the petition through appropriate motions and evidentiary proceedings under IDAPA 58.01.23. The differences are procedural in nature and do not affect the substantive rights of the permit applicant or of persons seeking to challenge the permit.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is necessary because the rule confers a benefit. This rulemaking will provide greater procedural rights to parties involved in an administrative appeal concerning a HWMA permit action of DEQ by providing an opportunity to present evidence and examine witnesses, as well as other procedural protections.

NEGOTIATED RULEMAKING: The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, April 7, 2004, Volume 04-4, page 27. No members of the public attended the scheduled meeting.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.deq.state.id.us.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning this rulemaking, contact the undersigned.

Anyone may submit written comments on the proposed rule by mail, fax or e-mail at the address below. DEQ will consider all written comments received by the undersigned on or before August 4, 2004.

Dated this 2nd day of June, 2004.

Paula J. Wilson
Environmental Quality Section
Attorney General's Office
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Boise, Idaho 83706-1255
(208)373-0418/Fax No. (208)373-0481
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THE FOLLOWING IS THE TEXT OF THE PENDING RULE

001. TITLE, SCOPE, AND APPLICABILITY.

01. Title. These rules are shall be cited as IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality". (3-15-02)

02. Scope. These rules establish general standards for contested case proceedings, petitions for rulemaking, and declaratory ruling proceedings, and rulemaking procedures as required by law. (3-15-02)

03. Applicability Of Contested Case Provisions. Section 39-107, Idaho Code, provides the opportunity to initiate a contested case proceeding. It provides that any person aggrieved by an action or inaction of the Department shall be afforded an opportunity for a fair hearing upon a request therefore in writing pursuant to Chapter 52, Title 67, Idaho Code. These rules govern such proceedings, except for ~~*the following:*~~ ~~*(3-15-02)*~~

~~***a.*** *Hazardous Waste Permit Program--Procedures for Decision Making. The procedure for decision making regarding all hazardous waste permits, including all hearings and administrative appeals, shall be governed by Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.05, Section 013, "Rules and Standards for Hazardous Waste".* *(3-15-02)*~~

~~***b.*** *Personnel Grievances and Employment Related Actions. P*~~personnel grievances and employment related actions. These are governed by IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission," and the DEQ Personnel Policies and Procedures Manual. ~~*(3-15-02)*~~(5-21-04)T

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS.

01. Aggrieved Person Or Person Aggrieved. Any person or entity with legal standing to challenge an action or inaction of the Department, including but not limited to permit holders and applicants for permits challenging Department permitting actions. (3-15-02)

02. Board. The Idaho Board of Environmental Quality. (3-15-02)

03. Contested Case. A proceeding resulting in an order, in which the legal rights, duties, licenses, privileges, immunities, or other legal interests of one (1) or more specific persons are required by law to be determined by the Board after an opportunity for a hearing. Contested case does not include rulemaking or Personnel grievances and employment related actions~~*, or proceedings pursuant to the hazardous waste permit program governed by the Rules of the Department of Environmental Quality, IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"*~~. ~~*(3-15-02)*~~(5-21-04)T

04. Declaratory Ruling. An interpretation by the Board, rendered pursuant to Section 67- 5232, Idaho Code, as to the applicability of any statute, order, or rule of the Board to a person's circumstances. (3-15-02)

05. Department Or DEQ. The Idaho Department of Environmental Quality. (3-15-02)

06. Director. The Director of the Department of Environmental Quality. (3-15-02)

07. Hearing Coordinator. The Person who coordinates, schedules, issues notices, and

administers actions governed by these rules on behalf of the presiding officer. The hearing coordinator assigns a permanent docket number to each action for purposes of identification and acts as custodian of records for all information and documentation involving actions governed by these rules. The hearing coordinator's mailing address and phone number is: Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0418, FAX (208)373-0481. (3-15-02)

08. Hearing Officer. A Person appointed or designated by the Board, who presides over actions governed by these rules and who may act as the presiding officer. The hearing officer cannot be an employee of the Department. (3-15-02)

09. Idaho Administrative Bulletin. The Idaho Administrative Bulletin established in Chapter 52, Title 67, Idaho Code. (3-15-02)

10. Order. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (3-15-02)

11. Party. Each person or agency named or admitted as a party. A party to a contested case shall be one (1) of the following: (3-15-02)

a. Petitioner. Any person aggrieved by an action or inaction of the Department who files, in accordance with these rules and Section 39-107, Idaho Code, a written petition for a determination of or appeal of his rights, duties, licenses or interests and any person who files a petition for a declaratory ruling or petition to initiate rulemaking. (3-15-02)

b. Respondent. Any person who responds to a petition filed in accordance with these rules. (3-15-02)

c. Intervenor. Any person, other than the petitioner or respondent, who is permitted to participate as a party pursuant to Sections 350 through 354. (3-15-02)

12. Person. Any individual, partnership, corporation, association, governmental subdivision, department, agency or instrumentality, or public and private organization or entity of any character. (3-15-02)

13. Petition. Pleadings initiating a contested case, rulemaking, or declaratory ruling, or to intervene filed in accordance with these rules. (3-15-02)

14. Pleadings. All documents filed by any party in a contested case proceeding. (3-15-02)

15. Presiding Officer(s). One (1) or more members of the Board or a duly appointed hearing officer. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one (1) of them to be the presiding officer. (3-15-02)